



Transcript of **Robert F. Putnam**

Thursday, September 7, 2023

United States of America v. State of Georgia

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Reference Number: 133069

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4

5 UNITED STATES OF AMERICA :
6 Plaintiff, :
7 v. : Civil Action No.
8 STATE OF GEORGIA, : 1:16-cv-03088-ELR
9 Defendant. :

10 Thursday, September 7, 2023

11 Washington, D.C.
12

13 Videotaped deposition of ROBERT F. PUTNAM, pursuant
14 to notice, the witness being sworn by BARBARA
15 MOORE, a Notary Public in and for the District of
16 Columbia, taken at the offices of United States
17 Attorney's Office, 150 M Street, N.E., Washington,
18 D.C., commencing at 9:43 a.m., and the proceedings
19 being taken down by Stenotype by BARBARA MOORE,
20 CRR, RMR and transcribed under her direction.
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22
23
24
25

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13

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24

25

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: We are now on
3 the record in the matter of the United
4 States of America v. State of Georgia.
5 Today's date is September 7, 2023. The
6 time is 9:43.

7 This is the video recorded
8 deposition of Dr. Robert Putnam being
9 taken at the U.S. Department of Justice,
10 150 M Street NE, Washington, D.C. I am
11 the camera operator, my name is Vytautas
12 Skripkauskas in association with TP One.
13 The court reporter is Barbara Moore, also
14 in association with TP One.

15 Will all attorneys please identify
16 themselves and the parties they
17 represent, beginning with the party
18 noticing this proceeding.

19 ATTORNEY BELINFANTE: Josh
20 Belinfante. Special Assistant Attorney
21 General for the State of Georgia.

22 ATTORNEY BEDNARD: Ed Bednard,
23 Assistant Attorney General for the State
24 of Georgia.

25 ATTORNEY HOLKINS: Patrick Holkins

1 for the United States.

2 ATTORNEY COHEN: Frances Cohen for
3 the United States.

4 ATTORNEY POLANSKY: Jessica
5 Polansky for the United States.

6 ATTORNEY ADAMS: Crystal Adams for
7 the United States.

8 THE VIDEOGRAPHER: Will the court
9 reporter please administer the oath.

10 *****

11 ROBERT F. PUTNAM,
12 having been called as a witness on behalf of the
13 Plaintiff and having been first duly sworn, was
14 examined and testified as follows:

15 EXAMINATION BY

16 ATTORNEY BELINFANTE:

17 Q. Dr. Putnam, can you provide just
18 your work address for the record.

19 A. Yeah. It's May Institute,
20 41 Pacella Park Road, Randolph,
21 Massachusetts, 02368.

22 Q. Great, thank you, sir.

23 My name is Josh Belinfante. I'm one of the
24 outside counsel for the State of Georgia in this
25 case. I'll be asking you some questions today.

1 ATTORNEY BELINFANTE: Patrick, are
2 we going to continue to reserve all
3 objections except to the form of the
4 question, privilege issues until the time
5 of trial?

6 ATTORNEY HOLKINS: Correct.

7 BY ATTORNEY BELINFANTE:

8 Q. Dr. Putnam, have you ever been
9 deposed before?

10 A. No.

11 Q. There's some key rules here, that
12 some of it is counterintuitive, but most of it is
13 pretty easy. Part of the key is the most important
14 person who is sitting next to me. And the court
15 reporter is making sure she can get everything
16 detailed. In normal conversation, people will talk
17 over one another. We just can't do that, so I'll
18 try not to do that to you and I would ask that you
19 not do it for me.

20 You will hear occasionally your counsel
21 will object. Unless they instruct you not to
22 answer, you may proceed to answer, but obviously
23 listen to your counsel in terms of what to do with
24 that.

25 One of the hardest things to do in a

1 deposition is people sometimes want to answer with
2 an "uh-huh" or "uh-uh." That doesn't come across
3 on the court reporter's reports. So if you can
4 answer with a yes or a no, that would be helpful.
5 And then if at any time you need to take a break,
6 just let us know, we will take a break. The only
7 thing I ask is if I ask you a question if you can
8 answer the question, and then we'll take a break
9 after that.

10 Is that agreeable?

11 A. Yes.

12 ATTORNEY COHEN: I'm hearing from
13 the folks on Zoom that they are having
14 trouble hearing Dr. Putnam. Is there
15 anything you can adjust?

16 THE VIDEOGRAPHER: Let me see what
17 I can do.

18 (Discussion held off the
19 record.)

20 BY ATTORNEY BELINFANTE:

21 Q. Last thing before we get started,
22 Dr. Putnam, I am not trying to ask confusing
23 questions. If at any point I do, please just let
24 me know and say "I don't understand the question"
25 or something to that nature.

1 A. Yes.

2 Q. Thank you. What did you do to
3 prepare for today's deposition?

4 A. I looked at various documents. I
5 reviewed and attended depositions. I reviewed some
6 data, and I also looked at my own research and also
7 other research that was pertinent to this matter.

8 Q. In terms of the documents that you
9 reviewed in preparation for today's deposition, are
10 there documents that are listed attached to your
11 expert report, things you relied on for the expert
12 report, I believe it's Appendix B?

13 A. Yes.

14 Q. Okay. And I notice you have in
15 front of you -- is that your expert report?

16 A. Yes.

17 Q. Okay. And how long or how much time
18 did you spend preparing for today's deposition
19 today, would you say?

20 A. Well, I've been asked to work on the
21 case last year and then prepared my report and then
22 had a number of conversations with the Department
23 of Justice.

24 Q. Okay. But in terms of preparing for
25 today in your deposition, how much time did you

1 spend, do you think, preparing for today?

2 A. Oh. Today? Well, probably since I
3 prepared the report.

4 Q. Okay.

5 A. Yeah.

6 Q. All right. And you are testifying
7 today pursuant to an agreement between the United
8 States Department of Justice and the May Institute;
9 is that correct?

10 A. That's correct.

11 Q. Okay. Let's go ahead and introduce
12 as Exhibit 1 the -- your report. We've got a copy,
13 and you can use your copy or use ours, it doesn't
14 matter.

15 A. Okay, thank you.

16 Q. It may make sense just to use yours.

17 A. Okay.

18 Q. To be sure the pagination is the
19 same.

20 (Exhibit 1 was marked for
21 identification.)

22 Q. Doctor, I realize I just handed you
23 a lot of paper, but that does appear to be your
24 report; correct?

25 A. From what I see on the first page;

1 right.

2 Q. We'll be spending a lot of time with
3 it today, so you can always tell me if something is
4 wrong.

5 How long did it take you to write the
6 actual report, from the time you sat down to begin
7 writing, not talking about the visits to Georgia
8 and that kind of thing, but in terms of writing the
9 report, how long do you think that took you?

10 A. I would guess about six weeks.

11 Q. Six weeks?

12 A. Yeah.

13 Q. And you said a moment ago that
14 somebody had reached out to you. Do you recall who
15 reached out to you to about providing your service
16 for this lawsuit?

17 A. I believe it was attorney Laura
18 Tayloe.

19 Q. Do you recall roughly when that was?

20 A. Probably February of last year.

21 Q. Okay. Do you recall if you were
22 asked to make any presumptions in terms of your
23 report?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: No.

1 BY ATTORNEY BELINFANTE:

2 Q. Were you provided a copy of the
3 complaint as part of -- when you were contacted by
4 Ms. Tayloe?

5 A. No.

6 Q. At any time were you provided a copy
7 of the complaint in this case?

8 A. I believe so at some point in time,
9 yes.

10 Q. Okay. In your own words, could you
11 tell me what you think the case is about.

12 A. Well, I can take it from my report
13 in terms of that. That basically is could the
14 State of Georgia do something different to prevent
15 students to go to more segregated placements, which
16 is GNETS.

17 Q. Are you familiar with the Americans
18 with Disabilities Act?

19 A. Somewhat, yes.

20 Q. Do you understand this case to be
21 about the Americans with Disabilities Act?

22 A. Part of it, yes.

23 Q. What other -- you said part of the
24 Americans with Disabilities Act. Could you tell me
25 what other parts you're thinking the case is about?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: The homestead

3 agreement, the homestead.

4 BY ATTORNEY BELINFANTE:

5 Q. Have you read any of the court
6 orders in this case?

7 A. I don't believe so.

8 Q. In preparing for your report -- and
9 I realize that we've got the Appendix B and I've
10 gone through it, but I'm checking myself as much as
11 anything else.

12 In preparing for the report, did you review
13 any federal statutes?

14 A. No, I don't believe so.

15 Q. How about federal regulations?

16 A. Well, I'm familiar with IDEA in
17 terms of that. So it's not like I had to review
18 it, but I'm familiar with it.

19 Q. Okay. And the IDEA, is that what
20 you said?

21 A. Yes.

22 Q. And what is, just for the record,
23 what is the IDEA?

24 A. It's a special education law.

25 Q. We know you looked at the state's

1 GNETS regulations issued by the Department of
2 Education, state Department of Education, did you
3 look at any other state regulations as part of your
4 work?

5 ATTORNEY HOLKINS: Object to form.

6 THE WITNESS: Well, I looked at
7 the -- the provider manual, looked at the
8 block grant. I looked at various other
9 documents that were related to the
10 Georgia system of care.

11 BY ATTORNEY BELINFANTE:

12 Q. Okay. But in terms of the
13 regulations promulgated by Georgia's state agency,
14 other than that which is the GNETS regulation which
15 we'll get to, did you look at any other state
16 regulations, to your knowledge?

17 ATTORNEY HOLKINS: Object to form.

18 Q. In preparing your report.

19 A. I believe so. I don't remember at
20 this point in time.

21 Q. If you did, would they have been
22 listed in Appendix B?

23 A. It would have been, yes.

24 Q. Okay. And did you look at any state
25 statutes to prepare your report, State of Georgia

1 statutes?

2 A. I believe I did as well, but I don't
3 remember.

4 Q. Okay. They would also be listed in
5 Appendix B if you did?

6 A. Right.

7 Q. Are you familiar with a case that
8 has been filed by others against the State of
9 Georgia, similar case entitled The Georgia Advocacy
10 Office, et al., versus the State of Georgia?

11 A. No.

12 Q. Okay. What do you understand or
13 what is your understanding of what the Department
14 of Justice is seeking in this case? In other
15 words, what are they asking the court to do?

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: To -- from my
18 perspective, to make reasonable
19 modifications to the Georgia system of
20 care.

21 BY ATTORNEY BELINFANTE:

22 Q. Okay. Is that in your opinion,
23 because -- do you agree with the goal of the
24 Department of Justice in this case?

25 ATTORNEY HOLKINS: Object to form.

1 THE WITNESS: Well, that they --
2 the goal from the Department of Justice
3 for me was to ask after I looked at all
4 the information that was available and
5 analyzed that information is if I found
6 there are things lacking whether I could
7 make reasonable recommendations.

8 BY ATTORNEY BELINFANTE:

9 Q. Okay. And do you support the effort
10 of the Department of Justice in its -- in what it
11 is seeking in this case?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: I'm not sure what
14 you mean by "seeking in this case."

15 Q. Do you personally believe that the
16 State of Georgia can make reasonable accommodations
17 to prevent IPT teams from recommending students for
18 GNETS services?

19 ATTORNEY HOLKINS: Object to form.

20 THE WITNESS: I reasonably feel
21 that the State of Georgia can make
22 changes in its system of care to prevent
23 students from going to GNETS.

24 BY ATTORNEY BELINFANTE:

25 Q. And how do you understand that a

1 student is referred to GNETS services? What's your
2 understanding of how that process works?

3 A. Well, one of the leading indicators
4 of students being placed in more restrictive
5 settings is oftentimes office disciplinary
6 referrals for their behavior.

7 So if a school or district can't manage
8 those behaviors, then they may seek options in
9 terms of, you know, where a student can be
10 better -- where from their perspective a student
11 can be better served.

12 Q. And who at that school makes that
13 decision?

14 ATTORNEY HOLKINS: Object to form.

15 THE WITNESS: It's usually the IEP
16 team.

17 BY ATTORNEY BELINFANTE:

18 Q. Do you know who makes up the IEP
19 team for the student?

20 ATTORNEY HOLKINS: Object to form.

21 THE WITNESS: It depends.

22 BY ATTORNEY BELINFANTE:

23 Q. To your knowledge, are there any
24 employees from the Georgia Department of Education
25 that serve on an IEP team?

1 A. Usually not.

2 Q. To your knowledge, are there any
3 employees from the Georgia Department of Community
4 Health that serves on an IEP team?

5 A. Usually not.

6 Q. Okay. And to your knowledge, are
7 there any employees of the Georgia Department of
8 Behavioral Health and Developmental Disabilities
9 that serve on an IEP team?

10 A. Usually not.

11 Q. Okay. If you spoke to anyone in
12 Georgia to prepare for your report, would that also
13 be listed in Exhibit B?

14 A. Yes.

15 ATTORNEY HOLKINS: Object to form.

16 Q. One follow-up. Do parents of the
17 student who has the IEP team convened, do that
18 student's parents typically -- are they members of
19 the IEP team?

20 ATTORNEY HOLKINS: Object to form.

21 THE WITNESS: Usually invited.

22 BY ATTORNEY BELINFANTE:

23 Q. Now, Dr. Putnam, you're not
24 providing an opinion in your report about whether
25 Georgia complies with the Americans with

1 Disabilities Act; correct?

2 A. That's correct.

3 Q. All right. And you're not providing
4 in your report an opinion on any individual
5 decision of an IEP team convened in the state of
6 Georgia; correct?

7 A. That's correct.

8 Q. And you're not opining that the
9 GNETS program should be abolished; is that correct?

10 A. That's correct.

11 Q. Because there's a role for services
12 like GNETS, isn't that right, for students?

13 ATTORNEY HOLKINS: Object to form.

14 THE WITNESS: That's correct.

15 BY ATTORNEY BELINFANTE:

16 Q. For some students' GNETS placement,
17 even if it means going to a separate school, is
18 appropriate, would you agree?

19 A. Well, I don't know a lot about
20 GNETS, because that wasn't what I was asked to do.
21 So if you are suggesting a restrictive placement,
22 then yes.

23 Q. Okay. Then let me ask this: If an
24 IEP team recommends that a student have a
25 restrictive setting away from their general

1 education classroom, that can be appropriate under
2 certain circumstances; is that correct?

3 A. Yes, but there are a lot of things
4 that influence that decision.

5 Q. Sure. But in terms of a per se, you
6 know, it's not always -- let me ask it this way.

7 It is not always inappropriate that a student
8 receive education services in a separate setting
9 than their general education school; correct?

10 A. That's correct.

11 Q. Okay. And so it needs to be -- is
12 it an individualized determination for that
13 student, what would be appropriate?

14 ATTORNEY HOLKINS: Object to form.

15 Q. Let me ask it this way, because I
16 think that's right. It was a poorly worded
17 question.

18 Is the question of what are appropriate
19 services for a student to receive an individualized
20 inquiry?

21 A. Yes, that's correct.

22 Q. Okay. You attached to your expert
23 report your CV as an Appendix A. Is the document
24 that you produced there -- and take your time -- is
25 it still accurate?

1 A. It's accurate as of June 16.

2 Q. Okay. Any major additions or
3 anything that's needed between June and today?

4 A. Well, I've conducted more research.

5 Q. Okay. All right. Now, you
6 mentioned a moment ago that you have not been
7 deposed before, so I'm presuming, is it correct,
8 that you have not served as an expert witness in
9 litigation before?

10 A. That's correct.

11 Q. Okay. Have you ever served as a
12 court monitor for a case?

13 A. No.

14 Q. Okay. Have you ever worked for a
15 state agency that is designated to administer the
16 Medicaid program?

17 A. Not worked.

18 Q. Have you consulted with agencies
19 that are designated to administer the Medicaid
20 program?

21 A. Yes.

22 Q. Okay. Have you ever been involved
23 in the submission of a Medicaid waiver application
24 to CMS, and by "involved" I mean helped write it.

25 A. No.

1 Q. To your knowledge, is the May
2 Institute a Medicaid provider?

3 A. No.

4 Q. Have you ever, to your knowledge,
5 worked for a Medicaid provider?

6 A. Yes.

7 Q. Who was what or what institute was
8 that?

9 A. That was the Social Mental Health
10 Center, Coastal Community Counseling Center.

11 Q. When was that again?

12 A. Probably about 29 years ago.

13 Q. Okay. All right. In looking at
14 your CV under --

15 A. Let me correct. The May Institute
16 at one point was provider of Medicaid services,
17 yes.

18 Q. And what Medicaid services did the
19 May Institute provide?

20 A. Day habilitation, outpatient
21 services, day treatment services. I believe
22 that's -- those were the services that were
23 provided.

24 Q. Was it providing those services
25 while you worked for the May Institute?

1 A. Correct.

2 Q. Okay. And it does not contract with
3 Medicaid today, the May Institute, that is?

4 A. Yes. It still does for day
5 habilitation services.

6 Q. Are day habilitation services, is
7 that for persons with intellectual and
8 developmental disabilities?

9 A. Yes.

10 Q. In your CV, I'm looking at page 3,
11 under first the May Institute, the senior vice
12 president for school consultation.

13 A. Yes, I see that.

14 Q. Okay. I notice that you have
15 provided consulting and clinical delivery of
16 consultation and school support services to over
17 100 school districts in New England, the
18 Mid-Atlantic, and the southeastern United States.

19 Do you see that?

20 A. Yes.

21 Q. Have you provided clinical delivery
22 of consultation and school support services to any
23 states as opposed to school districts?

24 ATTORNEY HOLKINS: Object to form.

25 I just want to note that the text says

1 "oversee" and not provide.

2 BY ATTORNEY BELINFANTE:

3 Q. Okay. Have you overseen -- let me
4 ask you this way just so we're clear on the record.
5 Have you overseen the clinical delivery of
6 consultation and support services to any state as
7 opposed to school districts?

8 A. Yes.

9 Q. Which state?

10 A. The state of Vermont and the state
11 of Massachusetts.

12 Q. Okay. Was that through the May
13 Institute?

14 A. Correct.

15 Q. Okay. And which states in the
16 southeastern United States when you talk about
17 school districts in that paragraph, which states
18 were you working in the southeastern United States?

19 A. At one point Maryland, Georgia,
20 Florida.

21 Q. What services -- to whom were you
22 providing services in Georgia?

23 A. We have an autism clinic that's
24 insurance-funded. And sometimes school districts
25 would reach out to us to provide support around

1 students with challenging behavior, and we would
2 provide consultation to that school.

3 Q. In your work in Georgia, do you
4 recall if you worked with a Marcus Center of
5 Autism?

6 A. No.

7 Q. Okay. In the next paragraph on your
8 CV where it talks about your role as vice president
9 of consultation and school support services, it
10 says that you oversee the delivery of consultation
11 and school support services to over 100 school
12 districts within the Commonwealth of Massachusetts
13 and numerous other states.

14 Do you see that?

15 A. Yes.

16 Q. That paragraph with the work you
17 were doing as vice president of consultation and
18 school support services, did you consult with any
19 other states as opposed to school districts?

20 ATTORNEY HOLKINS: Object to form.

21 THE WITNESS: I believe at that
22 point in time that I was providing
23 consultation to the state of Vermont.

24 And the other thing I've worked for for
25 just about the last 20 years is the

1 National Technical Assistance Center for
2 Positive Behavior Intervention and
3 Support. It's a grant through the Office
4 of Special Education Program.

5 And our center's responsibility is
6 to provide support to the states. And so
7 literally for the last 20 years to that
8 center we've supported states across the
9 country in terms of the implementation of
10 PBS and ISF.

11 BY ATTORNEY BELINFANTE:

12 Q. All right. And through that center,
13 are you part of a team that would work with states,
14 or would it be you individually work with the
15 states?

16 A. Oftentimes it would be part of a
17 team.

18 Q. Do you know if the State of Georgia
19 is one of the states that worked with that center?

20 A. Yes.

21 Q. Show you what we'll mark as
22 Exhibit 2.

23 (Exhibit 2 was marked for
24 identification.)

25 Q. Doctor, I will represent to you, and

1 you can see the time stamp that I've pulled this
2 from the May Institute website. Do you see, does
3 that appear to be an accurate reflection of the May
4 Institute's mission and vision there on the first
5 page -- second page?

6 A. I actually prefer to look at the
7 website itself rather than a document that's pulled
8 from the website.

9 Q. Well, let me ask this: Is the May
10 Institute's website Mayinstitute.org?

11 A. That's correct.

12 Q. Okay. I'm not sure how we can get
13 it where you can see the website as opposed to a
14 print page.

15 THE VIDEOGRAPHER: I can blow it
16 up on the screen.

17 Q. Let's do that. I'll hand you a copy
18 of the document, and the website address is on the
19 bottom.

20 (Pause)

21 ATTORNEY BELINFANTE: I'll note
22 for the record that the screen is showing
23 the same web page was at the bottom of
24 page 2. It is lacking some of the
25 graphics, but it is showing some of the

1 web page.

2 BY ATTORNEY BELINFANTE:

3 Q. Dr. Putnam, is this, what you're
4 looking at on the screen, the May Institute's
5 mission and vision?

6 A. Yes.

7 Q. All right. And would you agree with
8 me that what's shown in the first paragraph on the
9 screen is the same as what's shown on the first
10 paragraph on the document, Exhibit 2, that I
11 provided to you?

12 A. Yes.

13 Q. All right. So based on that, would
14 you agree -- do you agree with the May Institute's
15 mission that it provides -- or mission statement --
16 that it provides consulting services grounded in
17 evidence-based practice?

18 A. Yes.

19 ATTORNEY BELINFANTE: All right.

20 If you could scroll down. We're going to
21 need to zoom in on this.

22 THE VIDEOGRAPHER: Roll the scroll
23 forward.

24 BY ATTORNEY BELINFANTE:

25 Q. Dr. Putnam, if you can look at

1 what's on the screen --

2 A. Is this an eye test?

3 Q. No. I would not be doing that.

4 I'll represent to you that it's on page 3 of 4.

5 A. Yes.

6 Q. Do you see where it says there that
7 the May Institute does not discriminate on the
8 basis of race, color, religion? Sorry. I thought
9 that was still going on.

10 (Discussion held off the
11 record.)

12 THE VIDEOGRAPHER: Going off the
13 record at 10:16.

14 (Discussion held off the
15 record.)

16 THE VIDEOGRAPHER: We are back on
17 the record at 10:36.

18 BY ATTORNEY BELINFANTE:

19 Q. All right, Dr. Putnam. We had just
20 before we left the May Institute website up which
21 is also reflected on page 3 of 4 of Exhibit 2.

22 Do you see there where it says, "The May
23 Institute does not discriminate on the basis of
24 race, color, religion, ancestry, national origin,
25 age, physical or mental disability" in that first

1 line?

2 A. Yes.

3 Q. And do you agree with that
4 statement?

5 A. Yes.

6 Q. It continues, after listing a series
7 of statuses, at the third line it says "Is there
8 any other category affected under the applicable or
9 law employment at the institute, admission or
10 access to the institute or any other aspect of
11 educational programs and activities that the
12 institute operates?"

13 Do you see that?

14 A. Yes.

15 Q. And do you agree with that
16 statement?

17 A. Yes.

18 Q. Let's go -- we talked about it a
19 little bit before. So in terms of -- and it's also
20 on page 3 of your report -- you talk about
21 providing consultation services to schools across
22 the country.

23 In your experience in providing such
24 services, do you find that schools in different
25 states have different types of administration?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: Can you ask that
3 question again.

4 BY ATTORNEY BELINFANTE:

5 Q. Sure. You have consulted with
6 school districts across the country; correct?

7 A. Correct.

8 Q. And in looking at schools across the
9 country, do the schools operate differently in
10 different parts of the country?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Can you describe
13 what you mean by "operate."

14 BY ATTORNEY BELINFANTE:

15 Q. Sure. Are you familiar with a
16 phrase "local control"?

17 A. Yes.

18 Q. Okay. And in your experience in
19 dealing with school districts across the country,
20 do you find that there's varying degrees of local
21 control between states?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: Can you ask that
24 question again.

25

1 BY ATTORNEY BELINFANTE:

2 Q. Sure. In looking at schools across
3 the country, do you find that there are varying
4 degrees in which they operate with local control,
5 or is it your opinion that schools across the
6 country operate generally the same way in regard to
7 how much control or authority the local school
8 districts have as opposed to the state?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: I think the state
11 has definitely influence over what
12 happens in their schools.

13 BY ATTORNEY BELINFANTE:

14 Q. But the amount of influence, do you
15 find that that differs across states? Some states
16 the state will have more influence than other
17 states, for example?

18 A. Yes.

19 Q. Okay. You say on page 2 of your
20 report, first line, that you began your career with
21 roles at a large state institution for individuals
22 with intellectual and developmental disabilities in
23 a school for students with IDD.

24 What was the large state institution you
25 were referring to?

1 A. The Paul A. Dever State School.

2 Q. And is that in Massachusetts?

3 A. That's correct.

4 Q. Okay. And does Massachusetts -- did
5 the state of Massachusetts operate that school?

6 A. Yes.

7 Q. Okay. And that was -- you were the
8 director of the blind unit; is that correct?

9 A. In one of my positions, yes.

10 Q. I see. I can see it now, all right.

11 A. Yes.

12 Q. And you say that it was a large
13 state institution, what did you mean by the word
14 "institution"?

15 A. It had 1600 individuals with IDD,
16 and they were all in a congregate setting run by
17 the state.

18 Q. Do you view general education
19 schools within the State of Georgia as an
20 institution?

21 ATTORNEY HOLKINS: Object to form.

22 Q. Do you know what I mean by "general
23 education schools"?

24 A. Yes. And what do you mean by
25 "institutions"?

1 Q. Hang on a second. Let me ask
2 because it's more important. When I say "general
3 education schools," what does that mean to you? I
4 think we're talking the same thing. It's just one
5 of the things we have to do for the record.

6 A. Sure. So for me general education
7 schools are schools that serve students without
8 disabilities and students with disabilities.

9 Q. Okay. I think it's sometimes
10 referred to as a zone school. Is that also fair in
11 terms of where a student would go but for a
12 placement somewhere else in the public school
13 system?

14 ATTORNEY HOLKINS: Object to form.

15 THE WITNESS: I'm not familiar
16 with that term.

17 BY ATTORNEY BELINFANTE:

18 Q. You're not familiar with the term
19 "zone school"?

20 A. Yes.

21 Q. Fair enough. Is it your opinion --
22 and you went to some general education schools in
23 the State of Georgia; correct?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Yes.

1 BY ATTORNEY BELINFANTE:

2 Q. All right. And so do you view
3 general education schools as institutions?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: No.

6 BY ATTORNEY BELINFANTE:

7 Q. Why are general education schools
8 not institutions, in your opinion, in the State of
9 Georgia?

10 ATTORNEY HOLKINS: Same objection.

11 THE WITNESS: I don't know what
12 institutions are in Georgia. I can speak
13 across my experience, and institutions
14 tend to be large congregate settings for
15 individuals primarily with IDD.

16 BY ATTORNEY BELINFANTE:

17 Q. On your -- back to your report on
18 the second page -- and I'm looking for the quote --
19 but it says you provided services to a large school
20 district in Massachusetts.

21 ATTORNEY HOLKINS: Where? Where
22 are you on the second page?

23 ATTORNEY BELINFANTE: That's what
24 I was looking for.
25

1 BY ATTORNEY BELINFANTE:

2 Q. It's the second paragraph. It looks
3 like about the second sentence, says, "That work
4 morphed into a new role in which I provided
5 behavioral health consultation to a large school
6 district in Massachusetts concerning students at
7 risk of segregated institutional placement."

8 Do you see that?

9 A. Yes.

10 Q. What was the large school in
11 Massachusetts that that refers to?

12 A. Brockton public schools.

13 Q. And Brockton, would you consider
14 that an urban or suburban school district?

15 A. Urban.

16 Q. All right. Roughly how many
17 students were in the Brockton public schools when
18 you were doing the work there?

19 A. Probably about 15,000.

20 Q. All right. You go on to say in the
21 next sentence, "With my guidance, the district was
22 able to achieve some of the highest rates of
23 inclusionary services among the 14 largest school
24 districts in the state."

25 Do you see that?

1 A. Yes.

2 ATTORNEY HOLKINS: I want to
3 acknowledge for the record this includes
4 serving more children in inclusive,
5 placements in general education schools
6 and spending less per capita on
7 unrestrictive placements.

8 ATTORNEY COHEN: Could you take it
9 easy on Barbara?

10 ATTORNEY HOLKINS: The rest of the
11 sentence reads, "Serving more children in
12 inclusive placements in general education
13 schools and spending less per capita on
14 restricted placement."

15 BY ATTORNEY BELINFANTE:

16 Q. Do you recall what the rate of
17 inclusionary services were? You describe it as the
18 highest. Do you recall just kind of quantifying
19 what that number was?

20 A. Yes. If we go over to Section 8.

21 Q. Yes.

22 A. If you look on page 56.

23 Q. Okay.

24 A. And figure 15.

25 Q. I see.

1 A. So the Brockton public school
2 district is F on this graph.

3 Q. Okay. And the school districts all
4 listed on the X axis below, those are school
5 districts within the state of Massachusetts; is
6 that right?

7 A. The 15 largest urban districts, yes.

8 Q. All right. Because -- that comes
9 from figure 15, which looking at the footnote comes
10 from your article in 2022 on that; is that right?

11 A. Yes.

12 Q. Okay. Let's talk about that
13 article. Show you what we'll mark as Exhibit 3.

14 (Exhibit 3 was marked for
15 identification.)

16 Q. And your article it looks like
17 starts on page 17 of this document. And for the
18 record, this is the same article that's cited in
19 footnote 1 on page 2 of your expert report; is that
20 correct? Sorry, I realize I just sent you to three
21 different places at once.

22 ATTORNEY HOLKINS: Could you
23 direct him.

24 Q. On his report, page 2, footnote 1.

25 A. Hang on, let me get there. I'm

1 there. What's the question?

2 Q. So this is your article, looking at
3 Exhibit 3, beginning on page 17; correct?

4 A. That's correct.

5 Q. And it's the same article that's
6 cited in footnote 1 on page 2 of your report; is
7 that right?

8 A. That's correct.

9 Q. Okay. And so looking at page 18 of
10 the article, under Method, it says that the data on
11 expenditure costs for the 15 school districts
12 during fiscal year 1995 and fiscal year 1997 were
13 gathered from statistics published by the
14 Massachusetts Department of Education.

15 Do you see that?

16 A. Yes.

17 Q. So that's the period of time that
18 you were looking at in terms of measuring cost was
19 1995 to 1997?

20 A. It was for the year, fiscal year
21 1995 and for the year -- fiscal year 1997.

22 Q. Okay. And you said this a moment
23 ago, that this study looked at the 15 largest urban
24 districts in the state of Massachusetts; is that
25 right?

1 A. Correct.

2 Q. Okay. And if you go to page 19 at
3 the top, the communities involved, as I understand
4 this, had approximately 93,000 residents with an
5 enrollment of more than 16,000 students. Is that
6 correct?

7 A. Yes.

8 Q. All right. And you would agree with
9 me that the findings of your report do not
10 necessarily apply to rural school districts. Is
11 that right?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: Well, I have a lot
14 of experience in urban school districts.
15 And I find similar findings that I find
16 in this report.

17 BY ATTORNEY BELINFANTE:

18 Q. All right. Let's go to page 22
19 then. In terms of this report, the second sentence
20 of the first paragraph reads, "The districts
21 selected were the largest urban locations in the
22 state. Therefore, extrapolating these findings to
23 smaller rural districts may be problematic."

24 Do you see that?

25 A. Correct.

1 Q. Do you still agree with that
2 statement?

3 A. If you look specifically at this
4 report, I would agree. However, my experience in
5 terms of working with a lot of different rural
6 districts, we find the same type of findings.

7 Q. And -- but have you published
8 anything on those findings in rural districts?

9 A. Yes.

10 Q. Does your report cite to anything
11 about rural districts?

12 ATTORNEY COHEN: I'm just going to
13 interject for a second because I think
14 it's confusing. Dr. Putnam is pointing
15 at the article Exhibit 3 and referring to
16 this report, and now you're asking
17 questions about the report that I bet you
18 mean Exhibit 1.

19 ATTORNEY BELINFANTE: Fair.

20 BY ATTORNEY BELINFANTE:

21 Q. In terms of your report, Exhibit 1,
22 the report for this specific lawsuit, to your
23 knowledge, does it cite to any studies applying --
24 looking at cost savings that are described in your
25 article here, Exhibit 3, in rural districts?

1 A. I don't believe so.

2 Q. Okay. If you turn to page 23 of
3 Exhibit 3, that study.

4 A. (Witness complies with request.)

5 Q. It concludes at the end of the first
6 paragraph, the last sentence says, "Obviously,
7 additional finances would have to be spent to
8 improve practices and supports within these public
9 schools. This allocation should improve
10 considerably the intensity, comprehensiveness, and
11 positive outcomes of special education services."

12 Do you see that?

13 A. Yes.

14 Q. Do you have any quantification, or
15 does this article contain any quantification of the
16 additional finances that would have to be spent to
17 include the practices and supports within the
18 public school?

19 A. Well, the findings of this report --
20 hang on one second -- in terms of what we found was
21 that the -- let me go back.

22 Q. Sure.

23 ATTORNEY HOLKINS: Counsel, I'm
24 just going to give the witness the use of
25 the real time.

1 ATTORNEY BELINFANTE: Sure.

2 THE WITNESS: So what we found was
3 that the criterion school district is
4 significantly less. If you look at in
5 terms of both figures 3 and 2 that, as
6 you can see, per capita cost for
7 District F was \$100 versus L was about
8 \$700. So that was a huge saving.

9 If you look at the savings of that
10 and then you look at figure 3 and you
11 look at F in terms of percent of total
12 school expenditures, it was only
13 2 percent in F, and it's approximately
14 7 percent. And what we did was looking
15 at extrapolating those numbers statewide,
16 so if you look on page 23, really just
17 above that statement, that for example,
18 do you see that? Four lines down from
19 the top on page 23.

20 BY ATTORNEY BELINFANTE:

21 Q. Yes.

22 A. For example, if on a statewide basis
23 the targeted school's district percent of total
24 expenditures for out-of-district placements was
25 applied during FY97, the school districts within

1 Massachusetts would have saved over \$150 million.

2 Q. Right.

3 A. Okay.

4 Q. But that's based on money not spent
5 on what you refer to as out-of-district placements;
6 correct?

7 A. Correct.

8 Q. Okay. But that doesn't -- but you
9 still have to -- and this is what the next sentence
10 is about -- increase funding in order to achieve
11 that savings; is that right?

12 A. Well, in this particular district
13 they took those cost savings and applied it to
14 include inclusionary services. And if you look at
15 it in terms of figure 4, that was one of the
16 reasons why they got the highest by far, almost
17 68 percent of their students included, was taking
18 those cost savings, which is really what I'm
19 suggesting Georgia do, and to take those cost
20 savings and apply it to services that would support
21 students in inclusion.

22 So that's really the whole premise of the
23 article is you can allocate, reallocate funds and
24 do it more efficiently and more effectively to
25 improve inclusionary placements.

1 So I would go back to the \$150 million
2 saved; right?

3 Q. Right.

4 A. So we would have to improve -- it's
5 basically taking those services, that money,
6 \$150 million, and putting it toward improving
7 services for students to improve inclusionary
8 services.

9 Q. But they still had to, as I read
10 this report -- and tell me if I'm incorrect --
11 additional finances would have to be spent to
12 improve the practices; right? So it's not just
13 taking 150 million in savings and applying that to
14 what you referred to as inclusionary savings or
15 inclusionary services, you would have to then spend
16 on top of the savings to achieve that.

17 A. I disagree with your conclusion.

18 Q. Okay. Then what is the additional
19 finances to be spent?

20 A. Because sometimes you have to get
21 the ball rolling to get the \$150 million.

22 That's where this particular district,
23 Brockton, has used their state funds to basically
24 get the ball rolling so that basically they could
25 achieve the savings that, you know, they only spent

1 2 percent on out-of-district placements as compared
2 to these other districts who spent 7 percent of
3 their operating budget on that. Or if you go over
4 here and look at in terms of per capita cost, they
5 spent \$100 on per capita costs versus 700 capital
6 costs.

7 So what -- meaning by that statement is
8 sometimes you have to get the ball rolling, and in
9 this particular case this district was smart in
10 that they basically used their state funds to get
11 the ball rolling. And once they got the ball
12 rolling, they were able to achieve significant
13 savings in terms of -- for inclusion.

14 Q. Okay. And Brockton is, some would
15 call it a suburb or not, but it is close to Boston;
16 correct?

17 A. It's about 25 miles away from
18 Boston.

19 Q. And what did you mean in the next
20 sentence after the one we just talked about which
21 says, "The cost-efficacy analysis is clearly
22 limited by the fact that behavior supports of the
23 comparative school districts were unknown" (as
24 read)?

25 A. Because we didn't know precisely

1 what the behavioral support practices were, which
2 is why we put it in the article. Because I've
3 worked in the state of Massachusetts for many, many
4 years, I knew in terms of what some districts were
5 doing, but it wasn't -- I wasn't putting it in this
6 article because that wasn't the focus of our study.

7 Q. Okay. Further down in that
8 paragraph it says -- the sentence beginning "At the
9 same time." It says, "At the same time, it should
10 be acknowledged that reduced out-of-district
11 expenditures cannot by itself be used as an index
12 of effective behavior support. That is, the
13 quality of behavior support practices cannot be
14 assessed solely by the number of students being
15 educated in the public schools versus those placed
16 in out-of-district programs."

17 Do you see that?

18 A. Let me see if I can find that.

19 Q. Sure.

20 A. Yes.

21 Q. All right. What did you mean by
22 that?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: Well -- can I have
25 my water? I'm sorry. Let me go back

1 again. So what sentence again?

2 BY ATTORNEY BELINFANTE:

3 Q. Yes. "At the same time," which is
4 in about the middle of that paragraph.

5 A. Yes.

6 Q. The next two sentences.

7 A. Okay. So the out-of-district
8 expenditures really are a proxy in terms of, from
9 my perspective, behavior support practices in terms
10 of that. So even though I knew what was being
11 provided, which is basically if you want to look at
12 Table 1, it was functional behavioral assessment;
13 preparation of written behavior; intervention plan;
14 social skills assessment; social skills training;
15 database progress monitoring; parent training;
16 competency-based staff training, classroom
17 behavioral intervention; school-wide behavioral
18 intervention.

19 Q. Uh-huh.

20 A. Even though I knew that's what we
21 were providing and both the administration of the
22 Brockton public schools who are coauthors on this
23 and myself knew that's why we got reductions in our
24 district placements that -- let me go back to find
25 where that says that. That wasn't -- we weren't

1 measuring behavior support.

2 Q. Okay. So is it true then as I read
3 this on page 23 that just because students are no
4 longer being served in out-of-school placements,
5 that doesn't mean that they are receiving effective
6 behavior support?

7 A. Well, if you go down to the next
8 sentence, right, our suggestion is that like other
9 dependent measures available to public school
10 systems, office referrals, suspensions, inclusions,
11 which are those leading indicators for restrictive
12 placements, but the data can be used in combination
13 with those indices to evaluate properly the effects
14 of district-wide behavioral interventions.

15 We didn't put this in the report, but we
16 had reductions in office discipline referrals, we
17 had reductions in suspensions, we had reductions in
18 inclusions. The purpose of this study was
19 basically to look at it from a, as it says, a
20 cost-efficacy analysis, but, you know, I have
21 plenty of other research I've done or research of
22 my colleagues that basically say if you reduce
23 office discipline referrals, which is the leading
24 indicator, you end up with less restrictive
25 placements.

1 Q. Okay. But even in that situation,
2 you could have a student who stays in their general
3 education classroom, but that is not an indicator
4 by itself of effective behavior support; correct?

5 A. Repeat that question.

6 Q. Sure. A student could be in their
7 general education classroom as opposed to an
8 out-of-school placement, but that doesn't
9 necessarily mean that that student is receiving
10 effective behavior support; is that right?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Well, they may not
13 need behavioral support.

14 BY ATTORNEY BELINFANTE:

15 Q. Correct. But then effective would
16 kind of measure that. If the student -- let's take
17 a student who needs behavior support, they are in
18 their general education classroom as opposed to an
19 out-of-school placement. Just because they are in
20 that general education classroom, it doesn't mean
21 that they are receiving effective behavior support;
22 correct?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: That's a really long
25 question.

1 BY ATTORNEY BELINFANTE:

2 Q. I'll just stick with what the
3 article says.

4 (Discussion held off the
5 record.)

6 Q. Let's go to page 3 of your report,
7 your report for this case, Exhibit 1.

8 A. Okay.

9 Q. You talked about that you are a
10 national authority on various -- and I'm in the
11 second paragraph where you bring up MTSS,
12 Multitiered Systems of Support.

13 A. Right.

14 Q. If I wanted to find a singular
15 definition of MTSS, would I be able to do that?

16 A. Sure.

17 Q. Where would I look for that
18 definition?

19 A. You can probably look at the federal
20 Department of Education.

21 Q. So when you talk about fidelity to
22 MTSS, are you referring to the United States DOE's
23 definition?

24 ATTORNEY HOLKINS: Objection to
25 form.

1 THE WITNESS: And its consensus
2 across the field as well.

3 BY ATTORNEY BELINFANTE:

4 Q. So if I wanted to find fidelity
5 measurements for MTSS, where would I look for that?

6 A. Well, positive behavior
7 interventions and supports, which is MTSS, has a
8 number of different fidelity measures.

9 Q. So, in other words, to find fidelity
10 to MTSS, I have to look to PBIS; is that correct?

11 A. That they have the best, in my
12 opinion. The best fidelity measures.

13 Q. Is that opinion, to your knowledge,
14 unanimous within the education community?

15 ATTORNEY HOLKINS: Objection to
16 form.

17 THE WITNESS: I don't know if you
18 can say anything is. I mean, I think the
19 consensus is if you look at the national
20 technical assistance center, which has
21 all of the documents approved by the
22 office of special education, Department
23 of Education, those are -- those
24 documents, they are fidelity tools on
25 that website.

1 BY ATTORNEY BELINFANTE:

2 Q. Okay. But there are people that
3 disagree with -- you say there's consensus. To me
4 that means that there are people that disagree that
5 you can use the fidelity standards that you just
6 identified as the basis for measuring PBIS in every
7 circumstance.

8 Would you agree that there are at least
9 people that disagree with your conclusions?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: I'm sure there are
12 people that disagree with whether the
13 earth is round too.

14 BY ATTORNEY BELINFANTE:

15 Q. Okay. Let's talk about PBIS. Can
16 you define that term?

17 A. Sure.

18 Q. What's your definition?

19 A. My definition is a multitiered
20 system of support around social, emotional behavior
21 that uses database decisions and evidence-based
22 practices.

23 Q. Okay. And is there -- if I wanted
24 to look up the definition of PBIS and find the
25 national standard, where would I go for that?

1 A. I would say our National Technical
2 Assistance Center, positive behavior interventions
3 and support.

4 Q. Tell me about -- who makes up the
5 National Technical Center?

6 ATTORNEY HOLKINS: Object to form.

7 THE WITNESS: Various universities
8 and agencies.

9 BY ATTORNEY BELINFANTE:

10 Q. Is it a government entity or a
11 private entity?

12 A. It's a grant from the Department of
13 Education that they award every five years to an
14 entity, which the University of Oregon is the lead
15 partner. So it's between -- in terms of from a
16 fiduciary perspective, it's between the Department
17 of Education and the University of Oregon.

18 Q. Okay. Who implements PBIS in
19 schools? Is it done at the local level? Does each
20 school implement a PBIS system for itself?

21 ATTORNEY HOLKINS: Object to form.

22 THE WITNESS: What do you mean by
23 "implement"?

24 BY ATTORNEY BELINFANTE:

25 Q. If a school district says we want to

1 do PBIS, is that -- can you have schools within the
2 district where, for example, one is implementing
3 PBIS or having a PBIS system and then another
4 school is not, or is it something that has to be
5 done on a district basis, a district-wide basis?

6 A. It could be at one school and not in
7 another.

8 Q. Okay. Is it your understanding that
9 Georgia's state government, whether the Department
10 of Education, Department of Community Health, or
11 the Department of Behavioral Health and
12 Developmental Disabilities could mandate that every
13 school district in Georgia adopt and implement a
14 PBIS program?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Could you repeat
17 that again.

18 BY ATTORNEY BELINFANTE:

19 Q. Sure. Is it your understanding that
20 Georgia state government, whether the Department of
21 Education, Department of Community Health, or the
22 Department of Behavioral Health and Developmental
23 Disabilities could mandate the Georgia school
24 districts adopt a PBIS program?

25 ATTORNEY HOLKINS: Same objection.

1 THE WITNESS: Well, obviously they
2 could mandate.

3 BY ATTORNEY BELINFANTE:

4 Q. What is the basis of that opinion?

5 A. Well, because Georgia can mandate
6 anything they want -- right? -- in terms of that.
7 So any initiative they could mandate.

8 Q. Is that the Georgia Department of
9 Education that would do that?

10 A. Well, usually PBS is under the
11 auspices of the state Department of Education.

12 Q. Do you know or do you have an
13 opinion as to whether there's a role for the
14 Georgia Department of Community Health in requiring
15 PBIS in local school districts?

16 A. In my experience it usually comes
17 from the state Department of Education.

18 Q. Okay. So you don't know which
19 Georgia state government agency would be
20 required -- let me start over.

21 If the State of Georgia were to choose to
22 mandate PBIS, is it true that you do not know which
23 state agency would be the one to do that?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Yes.

1 BY ATTORNEY BELINFANTE:

2 Q. Are you familiar with Dr. Amy
3 McCart?

4 A. Yes.

5 Q. Okay. And have you read her report
6 in this case?

7 A. No.

8 Q. Do you know if she defines PBIS the
9 same -- do you know if -- what her definition of
10 PBIS is?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: No.

13 BY ATTORNEY BELINFANTE:

14 Q. Let's talk generally about the IDEA.
15 You're generally familiar with the IDEA; correct?

16 A. Yes.

17 Q. All right. And can you tell me
18 under the IDEA what is a free appropriate public
19 education, your understanding of that term?

20 A. Well, when it's free to -- for
21 individuals with disabilities. Appropriate would
22 be if you look at the Andrew decision by the
23 Supreme Court, that would be meaningful gains. And
24 so those would be kind of some of the standards you
25 would look at.

1 Q. Okay. And we talked about this
2 earlier. You're familiar with the term "IEP team";
3 correct?

4 A. Correct.

5 Q. All right. Have you ever served as
6 a member of an IEP team?

7 A. Yes.

8 Q. Okay. In Massachusetts only?

9 A. No.

10 Q. Have you ever served as a member of
11 an IEP team in the State of Georgia?

12 A. Yes.

13 Q. Do you recall which school
14 districts?

15 A. No.

16 Q. Okay. Do you recall roughly when
17 you served as a member of an IEP team in Georgia?

18 A. Approximately, you know, five to ten
19 years ago.

20 Q. Okay. Do you have a level of
21 understanding of the Americans with Disabilities
22 Act as it relates to education?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: None. Not really.

25

1 BY ATTORNEY BELINFANTE:

2 Q. Okay. Are you familiar with the
3 term "least restrictive environment" as it relates
4 to a student in education?

5 A. Yes.

6 Q. Okay. Is it the goal -- is it your
7 understanding that an IEP team is to consider what
8 is the least restrictive environment appropriate
9 for a student to receive education services?

10 A. Yes.

11 Q. Okay. And if an IEP team refers a
12 student for a restrictive setting, is the IEP team
13 supposed to consider whether that is the least
14 restrictive environment effective for the student
15 or appropriate for the student?

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: Can you repeat that
18 question.

19 BY ATTORNEY BELINFANTE:

20 Q. Sure. If an IEP team recommends a
21 restrictive setting for a student's education, is
22 the IEP team, before it makes that
23 recommendation -- does the IEP team need to
24 conclude that that would still be the least
25 restrictive environment appropriate for that

1 student?

2 ATTORNEY HOLKINS: Same objection.

3 THE WITNESS: I think within the
4 context of kind of what they know.

5 BY ATTORNEY BELINFANTE:

6 Q. Okay. And "they" being the members
7 of the IEP team?

8 A. That's correct.

9 BY ATTORNEY BELINFANTE:

10 Q. Okay. On page 13 of your report,
11 Exhibit 1, the first full paragraph begins with the
12 sentence, "The unnecessary segregation of students
13 with disabilities leads to serious problems that
14 are well documented in the research literature."

15 Do you see that?

16 A. Yes.

17 Q. What do you mean by -- or just
18 define the term, please, "unnecessary segregation."

19 A. Because in my experience that if the
20 students are provided with appropriate services at
21 the appropriate intensity that they don't need to
22 be segregated.

23 Q. All right. What is your definition
24 of "segregated"?

25 A. With limited access to general

1 education.

2 Q. What is your definition of
3 "appropriate services"?

4 A. Services that improve the student's
5 social, emotional, behavioral, and academic status.

6 Q. So at the time that a decision is
7 made to decide what would be appropriate services,
8 the goal is to improve the status; correct? Their
9 social, emotional, academic status?

10 A. Can you repeat the question?

11 Q. Sure. To determine whether under
12 your definition of appropriate services, which I
13 understood to be those that would improve a
14 student's academic, social, emotional behavior,
15 it's forward looking; correct? I mean, it's not a
16 situation where you're seeking to do something in
17 the future. You hope that the service provided
18 will cause this improvement; is that right?

19 ATTORNEY HOLKINS: Object to form.

20 THE WITNESS: I'm sorry, I'm
21 having a hard time following you.

22 BY ATTORNEY BELINFANTE:

23 Q. In determining what is appropriate,
24 is it a forward-looking analysis?

25 A. And a backward-looking analysis.

1 ATTORNEY HOLKINS: Object to form.

2 Q. What's the backward-looking
3 analysis?

4 A. My perspective is what the services
5 were that are currently provided to the student.

6 Q. Okay. And then what would be your
7 definition of "appropriate intensity" as you
8 discussed?

9 A. Intensity of what?

10 Q. Services.

11 A. And which services are you talking
12 about?

13 Q. I don't know. Because you said what
14 makes something unnecessary segregation would be if
15 they were provided with appropriate services at the
16 appropriate intensity, there would be no need. So
17 I'm trying to determine what you mean by "the
18 appropriate intensity."

19 A. Okay. And I think that's the basis
20 of my report is it's basically looking at -- one
21 would be, you know, if students were provided with
22 a function behavioral assessment with a behavioral
23 intervention plan with IC3 services, with IFI
24 services, with individual therapy, community
25 support services, and that, you know, there are

1 standards relative to what the appropriate
2 intensity would be for those particular students.

3 Q. Where would I find those standards
4 if I wanted to look them up?

5 A. One is we can look at it in the
6 provider manual in terms of what those standards
7 would be.

8 Q. Okay. Anything else besides a
9 provider manual?

10 A. Well, there's also consensus in the
11 field that students with, as it says here, serious
12 behaviors should have a functional behavioral
13 assessment and behavioral intervention plan.

14 Q. Okay. But I guess, would you
15 consider an FBA and a BIP services?

16 A. Well, a BIP list in terms of the
17 interventions that classroom teachers or other
18 people in the school would do to improve the
19 student's behavioral status.

20 Q. Okay. In terms of -- would you
21 agree with me that in determining what is
22 appropriate it is an individualized inquiry based
23 on each student?

24 ATTORNEY HOLKINS: Object to form.

25 Q. Let me ask this. Let me try to ask

1 it this way: Does the question of what is an
2 appropriate service depend on the needs of an
3 individual student?

4 A. Yes.

5 Q. Does the question of appropriate
6 intensity depend on the needs of an individual
7 student?

8 A. Yes.

9 Q. And are there students who could be
10 provided with appropriate services at the
11 appropriate intensity and still be -- the most
12 appropriate place for that student to receive
13 educational services would be in a separate or
14 segregated setting?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Yes.

17 BY ATTORNEY BELINFANTE:

18 Q. Okay. And who, in your opinion, is
19 in the best position to make the determination of
20 what is appropriate for a particular student, and
21 I'm going to give an inanimate amount to back that
22 up a little bit in terms of is -- are individuals
23 in a local school district well positioned to make
24 a determination of appropriateness for a student's
25 needs?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: Yes, can you repeat
3 that.

4 BY ATTORNEY BELINFANTE:

5 Q. Sure. Are persons at a local school
6 district, can they, in your opinion, make a
7 determination of what is appropriate for a
8 student's needs --

9 ATTORNEY HOLKINS: Object to form.

10 Q. -- in terms of both services and
11 intensity?

12 A. Yes, but I also have to -- you have
13 to look at the context. In other words, it's also
14 looking at what's available and, you know, I just
15 went through a whole litany of services along those
16 lines.

17 So, you know, if a local district team has
18 really not been trained well in terms of doing FBA
19 and BIP or if, in fact, there is not access to the
20 IC3 services or individual therapy or intensive
21 family intervention or community support, then, you
22 know, oftentimes the choices and what they know are
23 limited.

24 Q. And if services would be appropriate
25 but not available, is it your opinion that that

1 would deprive a student of a free and appropriate
2 public education?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: Well, I think people
5 would have to determine that. In other
6 words, the family, you know, could look
7 at the IEP and basically say this is not
8 an appropriate program for my son or
9 daughter.

10 BY ATTORNEY BELINFANTE:

11 Q. If a family objects to an IEP team's
12 conclusion, even understanding that a family has
13 the right to sit in on the IEP team, could the
14 majority of the IEP team overrule the family?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: No. I think the
17 family has the ability to, you know, have
18 the due process if they need to.

19 BY ATTORNEY BELINFANTE:

20 Q. Due process would be under the IDEA?

21 A. Correct.

22 Q. So if the family objected to an IEP
23 team's recommendation, they have an opportunity to
24 challenge that recommendation, is that what I
25 understand you to say?

1 ATTORNEY HOLKINS: Object to form.
2 I just want to clarify that I think that
3 counsel is calling for a legal opinion
4 from Dr. Putnam, who is not being held
5 out as an attorney.

6 ATTORNEY BELINFANTE: I'm asking
7 what his understanding is as opposed to
8 whether it's true or not.

9 BY ATTORNEY BELINFANTE:

10 Q. But is it your understanding that if
11 a family member objected to an IEP team's
12 recommendation, that it has a means to challenge
13 that recommendation?

14 ATTORNEY HOLKINS: Same objection.

15 THE WITNESS: Yes.

16 BY ATTORNEY BELINFANTE:

17 Q. Okay. Let's look at -- and don't
18 worry, I know everybody got excited when I jumped
19 ahead, I'm going back. But there's a method.

20 If you can turn to page 1 of your report.
21 Trust me, I've sat on that side plenty. Never been
22 an expert myself.

23 A. Yes.

24 Q. Okay. In the summary of your
25 report, on page 1, first sentence, "The vast

1 majority of students with behavior-related
2 disabilities, including students at serious risk of
3 educational placement, can be served effectively in
4 the general education school within their
5 communities."

6 Do you see that?

7 ATTORNEY HOLKINS: Protected
8 restricted educational placement, just
9 for the record.

10 ATTORNEY BELINFANTE: Sorry, I
11 thought I said something else.

12 BY ATTORNEY BELINFANTE:

13 Q. Do you see that first sentence,
14 Dr. Putnam?

15 A. Yes.

16 Q. Can you quantify for me "vast
17 majority"?

18 A. Most, if you want to say, students.

19 Q. What would constitute a
20 behavior-related disability for purposes of your
21 report?

22 A. Well, I defined it in my report as
23 certain diagnoses that would be and certain
24 behaviors.

25 Q. Okay. Would you agree with me that

1 all persons with behavior-related disabilities do
2 not need IC3 services?

3 A. Correct.

4 Q. Okay. And similarly, all persons
5 with behavior-related disabilities do not need IFI
6 services as you've described them in your report?

7 A. Correct.

8 Q. Okay. And all persons with
9 behavior-related disabilities would not need
10 individual therapy as described within your report?

11 A. Correct.

12 Q. When you say in that same sentence
13 that students are at serious risk of restricted
14 educational placement, what do you mean by "serious
15 risk"?

16 A. So for me serious risk would be that
17 they are engaging in certain behavior that the
18 local school or the classroom cannot feel that they
19 can serve them.

20 Q. Okay. How would a school district
21 go about identifying persons who are at serious
22 risk of restrictive educational placement?

23 A. One of the leading indicators is
24 office discipline referrals.

25 Q. Okay. And that's when somebody, a

1 student gets sent to the principal's office, is
2 that kind of what that constitutes?

3 A. That's correct.

4 Q. Okay. But not every person who gets
5 sent to the principal's office or has an ORD, as I
6 believe it's referred to, has a behavior-related
7 disability; correct?

8 ATTORNEY HOLKINS: Object to form.

9 ATTORNEY COHEN: Do you mean ODR?

10 ATTORNEY BELINFANTE: Thank you,
11 ODR, yes.

12 THE WITNESS: Can you repeat that
13 question.

14 ATTORNEY BELINFANTE: Yes, I will
15 do my best.

16 BY ATTORNEY BELINFANTE:

17 Q. Not every person who is a student
18 that has an ODR has a behavior-related disability;
19 is that correct?

20 A. That could be true, yes.

21 Q. I think we've covered this already,
22 but in that same first sentence you say that the
23 vast majority of students with behavior-related
24 disabilities, including students at serious risk of
25 restrictive educational placement, can be served

1 effectively in the general education schools within
2 their communities.

3 What do you mean by "served effectively"?

4 A. If we were going to use the metric
5 of office system referrals, then we would see
6 decrease in terms of that. Or if we were looking
7 at in terms of academic performance or if we look
8 at social-emotional schools that we can see
9 improvement in that.

10 Q. Okay. In terms of looking at
11 effectiveness of the service, is there a cost
12 component to that? In other words, is that a
13 factor in determining what is an effective --
14 serving a student effectively?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: I'm not sure I
17 understand the question.

18 BY ATTORNEY BELINFANTE:

19 Q. Hypothetically I can spend
20 \$6 million on one student and provide them with
21 every conceivable service; correct?

22 A. Yes.

23 Q. Would that mean I wasn't serving
24 that student effectively, or do you just not
25 consider cost?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: To go back to that
3 article, probably most of the work I've
4 done is looking at cost-effectiveness in
5 terms of that. My experience is schools
6 oftentimes can provide more effective
7 services, some cases at less cost.

8 BY ATTORNEY BELINFANTE:

9 Q. So cost, does that mean that cost is
10 a component of determining what is an effective
11 service?

12 A. Let's go back in terms of
13 effectiveness; right. I defined effectiveness as
14 improvements in ODR, which is reductions in
15 social-emotional, which is -- so there are metrics.
16 And we've done a lot of research looking at PBS
17 that shows that schools actually can reduce costs
18 in terms of what they do and effectively serve
19 students in general settings.

20 Q. But my question is a bit more
21 targeted than that. In terms of what is an
22 effective service for a student, do you consider
23 cost or do you not?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Obviously.

1 BY ATTORNEY BELINFANTE:

2 Q. Okay.

3 A. You need to look at costs; right.

4 However, I think the underlying is
5 cost-effectiveness. That's what I published on,
6 that's what we've done. So for me that's kind of a
7 theoretical question rather than, you know, what
8 actually happens in the real world.

9 Q. Did you identify any individual
10 students who are currently receiving services
11 through a GNETS program that could be served
12 effectively in their general education schools?

13 ATTORNEY HOLKINS: Object to form.

14 THE WITNESS: Could you repeat
15 your question.

16 BY ATTORNEY BELINFANTE:

17 Q. In preparing your report and looking
18 at the data that you did for the State of Georgia,
19 did you identify any student currently receiving
20 services through the GNETS program that could be
21 served effectively in the general education schools
22 if provided with appropriate services and support?

23 A. Well, we looked at students in --
24 basically in Section 7 that are enrolled in GNETS.
25 And looked at the services they received and, you

1 know, that the services they received were -- the
2 students were pretty limited in terms of receiving
3 what we'd say Medicaid services as well as the
4 intensity of those services.

5 Q. But in terms of any individual
6 students, I know you pulled seven files and you
7 discussed two. Did you find anyone, any individual
8 students who you believed could be served
9 effectively in the general education schools but
10 were in the GNETS program?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Yes.

13 BY ATTORNEY BELINFANTE:

14 Q. Okay. Who were those students?

15 A. We had by name every student that
16 was enrolled in GNETS in SY20 and SY22.

17 Q. Of those students, which one
18 individually could be served in a general education
19 environment? Did you form an opinion as to an
20 individual student and which one could be served
21 effectively in a general education school?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: What we did was look
24 at the services provided to those, that
25 whole set of students that were enrolled.

1 And my opinion is that if they were
2 provided appropriate services, which from
3 my opinion is they weren't and at the
4 appropriate intensity, they could be
5 served in general ed settings.

6 BY ATTORNEY BELINFANTE:

7 Q. Is that true of every student you
8 looked at in the GNETS program?

9 A. I don't know that for a fact.

10 Q. Okay. Also in the next sentence on
11 page 1 says that the therapeutic services and
12 supports that help students remain in integrated
13 settings are well established, as are the
14 frameworks of implementing and sustaining those
15 services at the system level.

16 Do you see that?

17 A. Yes.

18 Q. Okay. In Georgia where are
19 therapeutic services provided to students? What
20 setting?

21 ATTORNEY HOLKINS: Object to form.

22 THE WITNESS: Well, Georgia has an
23 Apex program that provides school mental
24 health services in the schools in
25 Georgia. It has a PBS program that

1 provides services in schools.

2 BY ATTORNEY BELINFANTE:

3 Q. Is Apex the only program through
4 which students can receive certain services?

5 ATTORNEY HOLKINS: Object to form.

6 Q. Let me rephrase. Is it your
7 understanding that Apex is the only program through
8 which students can receive support and services
9 that you describe in your article -- I'm sorry, in
10 your report?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: No.

13 BY ATTORNEY BELINFANTE:

14 Q. Do you know if students -- is it
15 your understanding that students can receive
16 education supports that are not paid for by
17 Medicaid --

18 ATTORNEY HOLKINS: Object to form.

19 Q. -- in Georgia?

20 A. Yes.

21 Q. Okay. Do you know if a school is
22 going to provide services and supports, do you know
23 where the discussion is made to provide those
24 services? Is it done at the school, individual
25 school level -- and again in Georgia -- is it done

1 at the district level on kind of what menu of
2 supports are going to be provided?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: What services are
5 you specifically referring to?

6 BY ATTORNEY BELINFANTE:

7 Q. The services, the therapeutic
8 services you refer to in the second sentence of
9 your first page of your report.

10 A. Can you repeat the question.

11 Q. Sure. When you write, "The
12 therapeutic services and support that helps
13 students remain at an integrated educational
14 services are well established," my question is for
15 those therapeutic services and supports, who
16 decides what a school is going to offer? Is it the
17 local school district, is it the school itself? Is
18 it someone else?

19 ATTORNEY HOLKINS: Same objection.

20 THE WITNESS: So let's break this
21 out in terms of PBS services.

22 BY ATTORNEY BELINFANTE:

23 Q. Sure.

24 A. The state has a PBS team that will
25 provide support to local schools districts along

1 those lines; right. And the local school districts
2 can decide in terms of, based upon the amount and
3 quality of PBS services and types of coaching,
4 whether they want to participate in PBS. And from
5 there the local school could decide whether they
6 want to participate in the PBS initiative.

7 So, you know, it comes down from the state
8 to the district to the school.

9 Q. Okay. I'm sorry. Were you --

10 A. Go ahead.

11 Q. Let's take another service, IC3, for
12 example.

13 A. Yes.

14 Q. Does a school district have to make
15 the affirmative decision to provide IC3 services?

16 ATTORNEY HOLKINS: Object to form.

17 A. No.

18 Q. Who makes the determination of
19 whether IC3 services will be made available in a
20 particular school district? Rephrase that.

21 Who makes the determination if IC3 services
22 will be made available to a particular student in a
23 district?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Well, if you go at

1 state PBHD level, it's whether IC3
2 services are available; right. And then
3 from what I understand there's only two
4 CSBs in the State of Georgia, at least
5 when I was putting this report together,
6 that have the availability of IC3. And
7 then it comes down to probably the
8 treating clinician in terms of, one, is
9 it available; right. And then two, do I
10 think this would help the individual.

11 BY ATTORNEY BELINFANTE:

12 Q. And for the state in terms of DBHDD,
13 did you see in any case where a student was
14 referred IC3 services and denied access to those
15 services?

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: Can you repeat that
18 question.

19 BY ATTORNEY BELINFANTE:

20 Q. Sure. In your review of the State
21 of Georgia that you made for your report, did you
22 see an example of a student who was referred for
23 IC3 services and denied access to those services?

24 ATTORNEY HOLKINS: Same objection.

25 THE WITNESS: I didn't see one,

1 although there were people from the CSB,
2 I believe, they were saying that they had
3 students who could benefit from IC3, but
4 it wasn't available.

5 BY ATTORNEY BELINFANTE:

6 Q. Which CSBs -- and by CSBs, I presume
7 you mean community service boards?

8 A. Yes.

9 Q. Which CSBs, do you recall?

10 A. I don't remember.

11 Q. When you say -- and I'm sorry we're
12 back on the same sentence -- when you say there
13 that the therapeutic services and support that help
14 students remain in more integrated educational
15 setting are well established, as are the frameworks
16 for implementing and sustaining those services at
17 the system level," what did you mean by
18 "sustaining"?

19 A. Well, the goal would be that once
20 services are initiated, that they continue to be
21 provided.

22 Q. Is there a way that that is
23 measured? In terms of, is it just annually you
24 look and see the services?

25 A. Well, one would be, look at what the

1 expectations might be. What the expectations are
2 in terms of that service and whether the services
3 in terms of number of sessions or duration, that
4 criteria.

5 Q. Okay. How would a state implement a
6 program -- what measures could a state take to make
7 sure that its program is sustainable?

8 ATTORNEY HOLKINS: Object to form.

9 Q. And by "program" I mean the
10 provision of therapeutic services and supports to
11 help students remain in a more integrated setting.

12 A. Which services are you referring to?

13 Q. The therapeutic services and
14 supports that help students remain in a more
15 integrated educational setting.

16 A. Can you repeat that question.

17 Q. Sure. How does a state -- what
18 effort can a state take to make sure those services
19 are sustainable, that the provision of such
20 services are sustainable?

21 A. Take, for example, PBS; right. The
22 state has a PBS plan in terms of that. And that
23 one is having the resources to be able to basically
24 support that.

25 Two would be to provide training and

1 coaching and data systems to support the
2 sustainability of that. So those would be a number
3 of factors relative to that.

4 Q. Okay. Last in that same sentence
5 when you say "those services at the system level,"
6 what system are you referring to?

7 A. Well, I would say one is we're
8 looking at the PBS system. That's a systems
9 approach in terms of that. Our MTSS, the other is
10 basically the system of care.

11 Q. Okay. What is your understanding of
12 the role of the Georgia Department of Education in
13 that system?

14 ATTORNEY HOLKINS: Object to form.

15 THE WITNESS: Georgia Department
16 of Education receives the PBS initiative.

17 BY ATTORNEY BELINFANTE:

18 Q. Okay. What is your understanding of
19 the role of the Department of Behavioral Health and
20 Disabilities dollars system?

21 ATTORNEY HOLKINS: Same objection.

22 THE WITNESS: What system are you
23 talking about?

24 BY ATTORNEY BELINFANTE:

25 Q. The systemic level needed to sustain

1 services.

2 A. Well --

3 Q. The system you're referring to in
4 page 1, second sentence of your report.

5 A. DBHD oversees the delivery of mental
6 health services. And in terms of that is, you
7 know, are they providing appropriate resources
8 through the Apex program. Are they maximizing
9 their Medicaid dollars to really take advantage of
10 the services that have been shown to be effective.

11 Q. Okay. In terms of maximizing
12 Medicaid dollars, is there -- what do you mean by
13 that?

14 A. Well, my understanding is is for
15 every dollar that the state provides they almost
16 get \$2 back from the federal government. And if,
17 in fact, they maximize their Medicaid services and
18 use their state dollars to pay for Medicaid
19 services, they would be getting \$2 back, so they
20 would be getting more services.

21 So it's kind of like when you go back to
22 that Brockton thing. It's basically using your
23 resources wisely and putting your money into
24 prevention services that are funded by the federal
25 government rather than just state dollars.

1 Q. When you say "maximizing Medicaid
2 dollars," you don't necessarily mean funding,
3 always increasing the Medicaid dollars, but it's
4 maximizing the use of the Medicaid program as
5 opposed to -- is that what you mean by it's more
6 programmatic?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: I'm not sure I
9 understand what you're saying.

10 BY ATTORNEY BELINFANTE:

11 Q. When you say "maximizing Medicaid
12 dollars," is that more of an emphasis on providing
13 Medicaid-funded services as opposed to state-only
14 funded services?

15 A. Yes. It's really taking the state
16 dollars; right?

17 Q. Right.

18 A. And it's through Medicaid, they are
19 going to get \$2 more of services. And so you
20 invest a dollar, you're going to get \$2 more back
21 in terms of that. That's a wiser use of state
22 dollars than them using their own state dollars to
23 fund those services.

24 Q. Okay. What is your opinion of the
25 role of Georgia's local school districts in

1 providing therapeutic supports and services to help
2 students remain more -- in more integrated
3 educational settings?

4 A. Are you reading something?

5 Q. Just the therapeutic supports. I
6 was reading from that second sentence again. My
7 question is, what is your opinion of the role of
8 local school districts in working to make sure that
9 therapeutic supports and services to help students
10 remain in more integrated educational services are
11 provided?

12 A. One of the roles is really to
13 maximize state dollars that they can use to deliver
14 those services. And, you know, and using the
15 dollars cost effectively to deliver effective
16 services.

17 Q. Anything else?

18 A. Well, also federal dollars.

19 Q. Okay. Anything else?

20 A. Not that I can think of.

21 Q. All right.

22 A. If we can take a quick break, would
23 that work?

24 Q. Absolutely.

25 THE VIDEOGRAPHER: Going off the

1 record at 11:48.

2 (Recess taken from

3 11:48 a.m. to 12:51 p.m.)

4 THE VIDEOGRAPHER: We are back on
5 the record at 12:51.

6 BY ATTORNEY BELINFANTE:

7 Q. Dr. Putnam, if we can stay on page 1
8 of your report, Exhibit 1. I've actually moved to
9 the third paragraph by now, it says that Georgia
10 can decrease its reliance on the GNETS program by
11 making reasonable changes to its service system,
12 including expanding existing therapeutic services
13 and support, including coordination and data across
14 the state's child service agencies and community
15 partners including robust training and technical
16 systems."

17 Do you see that?

18 A. Yes.

19 Q. Okay. What did you mean by
20 "decreases reliance on the GNETS program"?

21 A. Well, I believe they made -- if they
22 followed through on these recommendations, that
23 they wouldn't need to have many students going to
24 the GNETS program.

25 Q. What made you think -- first off,

1 you said Georgia can decrease its reliance on the
2 GNETS program. What did you mean by "Georgia"?
3 Did you mean the state Department of Education?

4 A. Yes, yes and DBHDD.

5 Q. Is it your opinion that the
6 Department of Community Health is reliant on the
7 GNETS program?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: Well, the Department
10 of Community Health provides the Medicaid
11 services. So those are in here
12 including -- including expanding existing
13 therapeutic services.

14 BY ATTORNEY BELINFANTE:

15 Q. What is the state Department of
16 Education doing to show that it is relying on the
17 GNETS program? "It" being the Department of
18 Education.

19 A. It -- well, for example, in terms of
20 the PBS program, my perspective is it's really not
21 providing enough resources to increase the number
22 of schools that are implementing the PBS program
23 across all tiers.

24 Q. Isn't that true across most states,
25 though?

1 ATTORNEY HOLKINS: Object to form.

2 Q. That most states are not -- most
3 school districts in those states are not fully
4 implementing PBIS at all levels?

5 A. That's true.

6 Q. Is Georgia -- anything other than
7 your comments just now about PBS, is what Georgia
8 Department of Education is doing is it's
9 demonstrating its reliance on the GNETS program?

10 A. Well, I think they also can
11 influence school staff, IEPTs, by providing as I
12 make in the last phrase of that paragraph, it's
13 providing robust training and technical assistance
14 to its school districts and schools.

15 Q. What would constitute robust
16 training? And by that I'm specifically looking for
17 their objective metrics that you can identify that
18 to you would be sufficient training.

19 A. Well, I think a couple different
20 things I think they can do. It's one, have
21 increased resources to the PBS state team so they
22 can provide more trainers. They can do more online
23 training to school districts. That they also --
24 they have the ability to track office discipline
25 referrals. They also have the ability to share

1 that data with DBHDD so that the mental health
2 providers could really focus on the students that
3 are most at risk of going to more restrictive
4 placements.

5 So there's a variety of things they can do
6 to, you know, to decrease its reliance on the GNETS
7 program.

8 Q. As part of your report, did you
9 conduct any type of cost estimate as to what it
10 would cost to do what you just described in terms
11 of the robust training?

12 A. No.

13 Q. If you could skip ahead in your
14 report to page 22.

15 ATTORNEY COHEN: No going back.

16 ATTORNEY BELINFANTE: Famous last
17 words.

18 Q. Specifically II?

19 A. Yes.

20 Q. Okay. I'm sorry. Just above II,
21 the last sentence there, "Finally, Georgia GaDOE
22 funds and administers GNETS statewide."

23 Do you see that?

24 A. Yes.

25 Q. How does the Georgia Department of

1 Education fund the GNETS program, or what's your
2 understanding?

3 A. My understanding from looking at
4 several documents is that the DOE provides about
5 \$50 million to fund the program.

6 Q. Do you know if it's a grant or if
7 it's funding from the Georgia Department of
8 Education?

9 A. I don't know the source.

10 Q. Okay. Have you looked at in the
11 documents that you talked about, that you looked
12 at, would they be included in Exhibit B or
13 Appendix B to your report?

14 A. I believe so.

15 Q. Okay. I don't recall seeing it, but
16 did you ever look at a Georgia state budget or an
17 appropriations act in preparing your report?

18 A. No, I don't believe so.

19 Q. Okay. Is it your understanding that
20 the Department of Education mandates how local
21 school districts will spend GNETS' funds?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: Can you ask that
24 again.

25

1 BY ATTORNEY BELINFANTE:

2 Q. Sure. Is it your understanding that
3 the state Department of Education mandates how
4 local school districts will spend GNETS' funds?

5 A. No.

6 Q. Okay. Do you understand that
7 local -- is it your understanding that local school
8 districts have discretion in how to spend GNETS'
9 funds?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: I don't believe that
12 the local school districts are -- receive
13 in most cases GNETS funds.

14 BY ATTORNEY BELINFANTE:

15 Q. Okay. Are you familiar with the
16 term RESA, R-E-S-A?

17 A. Yes.

18 Q. Okay. What is a RESA in Georgia, or
19 what's your understanding of what a RESA is?

20 A. It's a regional educational program.

21 Q. Dollars case a RESA would be,
22 perhaps, a group of two or more local school
23 districts that pull resources?

24 A. I don't know that.

25 Q. Okay. Let me ask a hypothetical.

1 Let's say that a Georgia local school district
2 operates a GNETS program and it wants to expand the
3 playground on the site of the GNETS facility. Is
4 it your understanding that it needs to get the
5 state's permission to do so?

6 ATTORNEY HOLKINS: Object to form.

7 THE WITNESS: Can you ask that
8 question again.

9 BY ATTORNEY BELINFANTE:

10 Q. Sure. It's a hypothetical, so let's
11 presume that local school districts has a RESA or,
12 excuse me, a GNETS program in its district and it
13 wants to expand the playground at the GNETS
14 facility. Does it need the state's permission to
15 do so?

16 ATTORNEY HOLKINS: Same objection.

17 THE WITNESS: My understanding is
18 that local school districts do not get
19 the GNETS funding.

20 BY ATTORNEY BELINFANTE:

21 Q. Okay. So your understanding is that
22 the funding for GNETS stays within the state
23 Department of Education?

24 A. Yes. What I understand through some
25 local authority who administers that funding.

1 Q. The local authority, is it your
2 understanding that that is a state entity as
3 opposed to -- when you say "local authority," I'm
4 just trying to determine who has control of it, a
5 state entity or a local entity?

6 A. I'm confused.

7 Q. So I guess what I'm trying to figure
8 out is the money that comes from the Georgia
9 Department of Education for GNETS --

10 A. Yeah.

11 Q. -- where do you -- tell me where you
12 think it flows in order to get to the actual
13 students on the ground, so to speak.

14 A. The best I know is there is an
15 authority which could be a RESA. It's not an LEA.
16 Because you keep talking about a local authority,
17 which defines what a local authority is.

18 Q. LEA?

19 A. Yes. So my understanding is it
20 doesn't flow to the LEA.

21 Q. Okay. All right. So when you
22 then -- the next part of that phrase there, and I'm
23 back on page 22 of your report, which is
24 Exhibit 1 --

25 A. Yeah.

1 Q. -- is that the Georgia Department of
2 Education funds and administers GNETS statewide.
3 What did you mean by "administer"?

4 A. What I understand is there is a
5 state GNETS rule, which governs the administration
6 of the GNETS program.

7 Q. Okay. Anything other than the rule
8 that is the basis of your opinion that the state
9 administers the GNETS program?

10 A. My understanding is that, you know,
11 that the state has the GNETS rule, and I'm sure, I
12 don't know specifically, that they have some
13 regulations relative to the operation of GNETS.

14 Q. Okay. Can you just tell me what
15 you -- how would you define the word "administers"
16 for purposes of that sentence?

17 A. I would look at it in terms of
18 providing funds, guiding the use of those funds.

19 Q. And is "administer" a word that you
20 chose on your own to use here, or was that a word
21 that was suggested to you by anyone?

22 A. No, that's my word.

23 Q. Okay. And you can tell it probably
24 matters to us lawyers. When you say that the
25 Georgia Department of Education funds and

1 administers the GNETS statewide, you're not making
2 an opinion or rendering an opinion on whether it
3 administers for purposes of the Americans with
4 Disabilities Act, are you?

5 ATTORNEY HOLKINS: Object to form.

6 THE WITNESS: I'm not sure I
7 understand the question.

8 BY ATTORNEY BELINFANTE:

9 Q. Okay. Your report does not opine
10 that for purposes of the Americans with
11 Disabilities Act that the Department of Education
12 funds and administers GNETS statewide; is that
13 right?

14 ATTORNEY HOLKINS: Object to form.

15 THE WITNESS: I don't believe I
16 referenced the Americans with
17 Disabilities Act.

18 BY ATTORNEY BELINFANTE:

19 Q. Okay. Zeroing in on this sentence,
20 that the Department of Behavioral Health and
21 developmental disabilities funds or administers
22 GNETS.

23 A. That's not my understanding.

24 Q. Okay. Is it your understanding or
25 opinion that the Department of Community Health

1 funds or administers the GNETS program?

2 A. That's not my understanding.

3 Q. In order for a student to receive
4 services from a GNETS program, must -- is it your
5 understanding that they must be referred to GNETS
6 services by their IEP team?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: They -- they must be
9 referred by their school. By assumption
10 it would be involving the IEP team.

11 BY ATTORNEY BELINFANTE:

12 Q. Okay. And is it your understanding
13 that any student referred for GNETS services, that
14 referral is based on an individualized
15 determination?

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: Can you repeat that
18 question.

19 BY ATTORNEY BELINFANTE:

20 Q. Sure. Is it your understanding that
21 any student who is referred for GNETS services,
22 that referral is based on an individualized
23 determination?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Yes.

1 BY ATTORNEY BELINFANTE:

2 Q. Don't panic. The nice thing is,
3 Dr. Putnam, you put your opinions at the start of
4 your report, so it lets me go there and ask a bunch
5 of questions. It alleviates the need for me to do
6 it later.

7 Let me go back to page 1. I'm still on
8 that sentence that's the third paragraph of the
9 report. "Georgia can decrease its reliance on
10 GNETS' program by making reasonable changes to its
11 service system."

12 What did you mean by "reasonable changes"?

13 A. That from my perspective, and we're
14 talking about reasonable changes, are things
15 clearly within their power in terms of being able
16 to do that -- so, for example, part of that is
17 expanding the rest of that paragraph, expanding
18 existing therapeutic services and supports by
19 improving coordination and data collection across
20 state child-serving agencies and community partners
21 and providing robust training and technical
22 assistance.

23 So those are what I considered to be
24 reasonable changes.

25 Q. Okay.

1 ATTORNEY COHEN: I'm just going to
2 caution the witness to slow down because
3 the court reporter is genius but not
4 supernaturally powered. She's close.

5 BY ATTORNEY BELINFANTE:

6 Q. In terms of making that
7 determination that Georgia could make reasonable
8 changes, did you perform any kind of cost analysis
9 for your report?

10 A. No.

11 Q. Is it possible that Georgia can
12 make -- and using your language here -- that
13 Georgia could make all the reasonable changes in
14 the world that you prescribe, but that an IEP team
15 still refers a child for services in a segregated
16 education setting?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: Well, I think you
19 have to talk about IEP teams in context.
20 So I'm suggesting that they could expand
21 Apex, right, and if an Apex provider was
22 sitting on an IEP team that they could
23 come to a different conclusion. I'm
24 suggesting that they expand PBS.

25 And so if somebody had training

1 experience in PBS, the IEP team could
2 come to a different conclusion.

3 My 40 years of experience has been
4 here is an IEP team that basically
5 suggests a restrictive placement. And
6 the school district brings me in to say
7 can you influence the IEP team to come up
8 with a less restrictive program.

9 So my 40 years experience
10 indicates the IEP teams operate within
11 the context of what -- where they are.
12 And that if they, in fact have other
13 supports, other services that are
14 provided to them that many cases they
15 come to a different conclusion relative
16 to restrictive...

17 BY ATTORNEY BELINFANTE:

18 Q. Many cases but not all; correct?

19 A. Correct.

20 Q. All right. Let's go to page 4 of
21 your report, Exhibit 1.

22 A. Yes.

23 Q. In the part that you described here
24 as part 2, the methodology, did anyone review the
25 methodology that you used here in kind of a peer

1 review sense?

2 ATTORNEY HOLKINS: Object to form.

3 THE WITNESS: I'm not sure what
4 the question is.

5 BY ATTORNEY BELINFANTE:

6 Q. Okay. Did any peers review your
7 report before you finalized it?

8 A. No.

9 Q. In terms of the methodology, did you
10 pull from peer-reviewed studies that use a similar
11 methodology to reach the conclusions, the
12 conclusions you did?

13 A. This is a similar methodology that
14 I've used for literally 40 years in terms of doing
15 program evals. So it's been replicated over and
16 over again in terms of that. So it's worked in
17 terms of coming up with reasonable modifications
18 for whatever organization has contacted me.

19 Q. To your knowledge, has any of those
20 program evaluations that you just described been
21 peer reviewed?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: I'm not sure.

24 BY ATTORNEY BELINFANTE:

25 Q. Okay. Let's go to page 6. First

1 sentence under part 3 reads, "There is broad
2 scientific consensus that students with
3 behavior-related disabilities who receive timely,
4 appropriate services can avoid restrictive
5 educational placements and be served in more
6 integrated educational settings within their
7 communities."

8 Do you see that?

9 A. No. Where are we?

10 Q. Page 6.

11 A. Oh, page 6, I'm sorry.

12 Q. You didn't expect me to jump two
13 pages.

14 A. Yes.

15 Q. Take a look at the first sentence.

16 A. Yes.

17 Q. Okay. My question is, you say that
18 services need to be provided timely. What
19 standard -- what would constitute timely delivering
20 services? Is there a standard or benchmark?

21 A. So what I would suggest would be
22 that one example is early in a student's career we
23 can begin to look at whether they are receiving
24 office discipline referrals. And we would want to
25 identify services at that particular point in time

1 that are provided to them. So one is -- really
2 goes to early identification in terms of providing
3 timely services.

4 Q. Okay. At what stage does a child
5 begin to have ODRs that warrants identifying
6 services?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: What do you mean by
9 "stage"?

10 BY ATTORNEY BELINFANTE:

11 Q. Elementary, middle school, high
12 school.

13 A. Really across the board.

14 Q. Okay. All right.

15 Going back to your methodology I know that
16 there were visits you had at GNETS' program in
17 Georgia. How did you choose -- excuse me, that
18 there was -- yes. How did you choose the schools
19 that you visited?

20 A. So I -- at the bottom of page 5, I
21 suggested factors such as the rate in which schools
22 and districts were listed as home and school and
23 district for GNETS students, the student enrollment
24 in the school, whether the school participated in
25 Apex or PBS, and the school's geographical

1 location.

2 Q. Were there any schools that you
3 wanted to visit but did not have an opportunity to
4 do so?

5 A. No.

6 Q. Let me ask another question based on
7 that sentence on page 6 about serving students in a
8 more integrated educational setting within their
9 communities. I think I know the answer, this is
10 one of the things more for the record.

11 Let's say a student lives in Macon,
12 Georgia, and their school is in Macon, Georgia, and
13 there is a separate GNETS facility in Macon,
14 Georgia. Is that considered serving a student
15 within their community if they are dollars separate
16 GNETS facility?

17 A. I think it's really important if
18 they are in a generalized setting. That is not
19 what I consider to be a generalized setting.

20 Q. In terms of serving someone in their
21 community, what you mean by that is in their
22 general education setting?

23 A. Correct.

24 Q. Okay. The next sentence there on
25 page 6 is, "To work as intended, the therapeutic

1 services described below must be provided by
2 trained and qualified professionals with sufficient
3 intensity and with fidelity to the recognized
4 standards."

5 Do you see that?

6 A. Yes.

7 Q. What kind of qualifications does
8 someone need to provide the services?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: Which services are
11 you referring to?

12 BY ATTORNEY BELINFANTE:

13 Q. The therapeutic services described
14 below. So do they vary based on the service?

15 A. Yes.

16 Q. Okay. Does someone typically -- let
17 me ask this: Is there any service for which you do
18 not need a master's degree to provide that you
19 identified?

20 ATTORNEY HOLKINS: Object to form.

21 Q. At least a master's degree?

22 ATTORNEY HOLKINS: Same objection.

23 THE WITNESS: Can you repeat the
24 question.

25

1 BY ATTORNEY BELINFANTE:

2 Q. For the services that you identify
3 below, it looks like FBA and BIP wraparound
4 services, family and community supports, individual
5 and group therapy, for any of those services, can
6 someone who has an education which is less than a
7 master's degree provide those services?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: Yes.

10 BY ATTORNEY BELINFANTE:

11 Q. Yes, okay. And so -- and I think I
12 understood the qualifications there is based on the
13 service provided?

14 A. That's correct.

15 Q. Okay. What is your understanding of
16 LEA's role in providing training to educators --

17 ATTORNEY HOLKINS: Object to form.

18 Q. -- in Georgia?

19 A. That's one of their functions.

20 Q. Did you see anything in your
21 examination of Georgia where the state, whether it
22 was the Department of Education, Department of
23 Behavioral Health and Developmental Disabilities,
24 the Department of Community Health prevented LEAs
25 from providing training to their own employees?

1 A. No.

2 Q. Let's look at the Core Services
3 section starting with the functional behavior
4 assessments and behavior and prevention plans on
5 page 7.

6 Page 7, the first sentence says, "A
7 student's needs and behaviors must be well assessed
8 before a clinician can identify needed services."

9 Do you see that?

10 A. That's correct.

11 Q. Okay. What kind of clinician is
12 needed to identify the services?

13 ATTORNEY HOLKINS: Object to form.

14 THE WITNESS: Can you repeat that
15 question again.

16 BY ATTORNEY BELINFANTE:

17 Q. Sure. Just reading from your thing,
18 it says a clinician has to identify the needed
19 services. What did you mean by "clinician," what
20 type of --

21 A. It could be a teacher. It could be
22 other people that have more qualifications.

23 Q. So a person with an education degree
24 alone, no master's degree, to identify needed
25 services under an FBA?

1 A. Correct.

2 Q. Okay. Is there a national standard
3 for that or national standard of care to determine
4 who can do it?

5 A. Well, I would say it depends on the
6 intensity and the complexity of the student's
7 behavior.

8 Q. Is it fair to say the more complex
9 and intense the student's behavior, the more
10 training that the person needs to complete the FBA?

11 A. Yes.

12 Q. Okay. Do you know in Georgia are
13 FBAs conducted at the LEA level or the individual
14 school level, do you know?

15 A. I'm sorry, can you repeat the
16 question.

17 Q. Sure. In Georgia are FBAs conducted
18 on like the individual school level, there's
19 someone at, for example, that high school that does
20 it, or is there someone do you know at the LEA
21 district-wide that conducts FBAs?

22 A. It's various situations.

23 Q. Okay. To your knowledge, does
24 anyone at the Georgia Department of Education
25 provide FBAs to students?

1 A. Can you define what you mean by the
2 Georgia Department of Education?

3 Q. Sure. An employee of the Georgia
4 state Department of Education as opposed to the
5 local school district.

6 A. Well, there are various employees in
7 Georgia. Along that continuum. I don't know who
8 is employed by the Georgia State Department of
9 Education or not.

10 Q. Okay. Did you review any Georgia
11 students' FBAs?

12 A. No.

13 Q. To your knowledge, does the State of
14 Georgia impose any barriers or impediments to
15 students obtaining an FBA?

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: No.

18 BY ATTORNEY BELINFANTE:

19 Q. You also say on page 7 -- and this
20 is the third full paragraph -- "If conducted with
21 fidelity, FBAs provide information necessary for
22 staff to design interventions that successfully
23 modify the context in which such behaviors occur,
24 teach replacement behaviors matched to the function
25 of the original behaviors, and design systems that

1 reinforce the desired and replacement behaviors."

2 Do you see that?

3 A. Yes.

4 Q. Okay. What would be the fidelity
5 standards for FBA, and where would I find them?

6 ATTORNEY HOLKINS: Object to form.

7 THE WITNESS: Well, there are what
8 we call brief FBAs, and then there are
9 more complex FBAs.

10 BY ATTORNEY BELINFANTE:

11 Q. And where would I look to find those
12 fidelity standards?

13 A. I think if you look at the PBS.org
14 website, it will describe in terms of what a brief
15 FBA is. And then a lot of research that describes
16 what a more complex FBA would be.

17 Q. Okay. If, for example, the Court
18 were to say in an order based on this litigation
19 Georgia has to provide an FBA for every student
20 who's been identified with an emotional behavior
21 disorder and that FBA has to be conducted with
22 fidelity, where would the Court or the state look
23 to determine specifically what that fidelity looks
24 like?

25 ATTORNEY HOLKINS: Object to form.

1 THE WITNESS: I would say one is
2 go on the PBS.org website and click,
3 suggest a number of textbooks that
4 basically describe that.

5 BY ATTORNEY BELINFANTE:

6 Q. Are those textbooks cited in your
7 report, do you know?

8 A. I don't believe so.

9 Q. Let's talk about wraparound
10 services, page 9.

11 A. Okay.

12 Q. Would you agree with me that what
13 you define as wraparound services are not delivered
14 exclusively in the school settings?

15 A. Can you repeat that question.

16 Q. Sure. Would you agree with me that
17 in Georgia wraparound services are not delivered
18 exclusively in the school settings?

19 A. That's correct.

20 Q. Okay. To your knowledge, are
21 wraparound services and what you describe here as
22 IC3, are those available in both low income
23 Medicaid and age-blind disabled Medicaid?

24 A. I'm not sure I understand those
25 terms.

1 Q. Are you familiar with the term "low
2 income Medicaid"?

3 A. No.

4 Q. How about age-blind disabled
5 Medicaid?

6 ATTORNEY COHEN: Did you say "age
7 blind disabled"?

8 ATTORNEY BELINFANTE: Yes, ABD.

9 BY ATTORNEY BELINFANTE:

10 Q. Do you know what kind of
11 providers -- and by that I mean the type of
12 training a clinician, whether a social worker,
13 psychiatrist, psychologist, et cetera -- what kind
14 of procedures provide wraparound services?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: I believe Georgia
17 has standards around that in terms of
18 IC3.

19 BY ATTORNEY BELINFANTE:

20 Q. In looking at the wraparound
21 services and your opinion about wraparound services
22 in Georgia, did you consider any issue regarding
23 workforce in Georgia?

24 A. No.

25 Q. Did you look at -- and just to be

1 more specific, did you look at any workforce data
2 for psychiatrists in Georgia?

3 A. No, I wasn't asked to opine on that.

4 Q. Sorry if I'm being repetitive. It's
5 the rules we have to play by on the lawyers side.

6 Did you look at any workforce data
7 requiring psychologists in Georgia?

8 A. No.

9 Q. Okay. If we jump ahead to page 33,
10 you discuss IC3 services there as well.

11 ATTORNEY HOLKINS: If I can flip
12 to the page.

13 ATTORNEY BELINFANTE: Sure.

14 ATTORNEY POLANSKY: Can you repeat
15 the page number.

16 ATTORNEY BELINFANTE: Sure. 33.

17 Larry Bird.

18 (Discussion held off the
19 record.)

20 BY ATTORNEY BELINFANTE:

21 Q. Anyway, so the -- looking at
22 page 33.

23 A. Yes.

24 Q. I think we at least got that, you
25 say that the IC3 services are especially scarce in

1 Georgia, and that is in the middle of that full
2 paragraph, it starts with the third sentence,
3 "However, IC3 services" -- I'm sorry. "However,
4 IC3 is especially scarce in Georgia."

5 A. Yes.

6 Q. Okay. I know -- was that based on a
7 comparative analysis? In other words, that Georgia
8 on a per population basis had fewer IC3 type of
9 services than other states, or what was the basis
10 of that conclusion that IC3 is especially scarce in
11 Georgia?

12 A. Well, Georgia is a big state, and
13 there are only two providers when I wrote the
14 report that provided this. So I don't know what
15 the square mileage is, but it's pretty huge and
16 there's only two providers for that, so that's one.

17 The next sentence says, "740 students
18 statewide received an IC3." And, you know, that's
19 less than 7 percent of the total number of children
20 in Georgia with emotional disturbance enrolled in
21 Medicaid PeachCare.

22 Even in the next sentence, "Two years later
23 there are fewer students, 545 that apply." And the
24 next sentence says, "By contrast, more than five
25 times as many students, 3,000 were in the GNETS

1 program," right. So look at those numbers as
2 compared to look at students that are without
3 serious mental health disabilities. That's pretty
4 low.

5 And literally even going back to in terms
6 of how many actual service units that people --
7 that students provide, it's pretty limited as
8 compared to looking at the provider handbook.

9 So I can point that out if you want in
10 terms of what the paucity of services were versus
11 what they established.

12 Q. We'll get to those in a moment.

13 But the idea that something is scarce, is
14 there a state that you can identify that offers
15 what you would say is a model in terms of its ratio
16 of having wraparound -- I'm sorry, not
17 wraparound -- in terms of customized care
18 coordination?

19 ATTORNEY HOLKINS: Object to form.

20 Q. So Georgia -- and I'll put it this
21 way: If Georgia wanted to -- if the Georgia --
22 pick a department, wanted to look and say we want
23 to expand, this state is doing it right. Where
24 would you recommend they look? What state would
25 you recommend they look to?

1 A. I don't have a state. I think what
2 I'm suggesting is those students that are at high
3 risk and have serious emotional disabilities, the
4 goal would be to provide access to that service.

5 Q. To your knowledge, in your review of
6 data for your report, did you see any situation
7 where a student was referred IC3 services and did
8 not obtain it?

9 A. I believe in the depositions that
10 there was a part that there could be more, IC3
11 services could be more available.

12 Q. Did you find in your review of
13 students or individuals anybody that was referred
14 IC3 services and did not receive them?

15 A. Not that I'm aware of.

16 Q. Okay. And would you agree with me
17 that IC3 services are intense services on the
18 scale, they tend to be on the more intense side?

19 A. For community-based services, yes.

20 Q. When I look at footnote 101 which is
21 cited on page 7 -- I'm sorry, not 7, page 33 --
22 footnote 101 refers to a Department of Education
23 statistic that in FY 2019 5.45 of students with
24 disabilities were identified as emotional
25 disturbance.

1 Do you see that?

2 A. Uh-huh.

3 Q. Would every student with emotional
4 disturbance need IC3 services?

5 ATTORNEY HOLKINS: Object to form.

6 Asked and answered.

7 THE WITNESS: No.

8 BY ATTORNEY BELINFANTE:

9 Q. Okay. Going back to page 17, would
10 you deem IC3 -- and I'm just, I'll ask the question
11 and you can see where I'm going with it -- but
12 would you deem IC3 services to be tier 3 services
13 under a PBS model?

14 A. Where are you referring to?

15 Q. At the top of page 17 it says,
16 "Tier 3 offers the most individualized and
17 intensive supports and services generally to a very
18 small subset of students with the highest needs,
19 typically 3 to 5 percent of the population."

20 My question is do IC3 services, would they
21 fall under tier 3 services?

22 A. Hang on. Can I just read the
23 context of that paragraph?

24 Q. Yes, absolutely.

25 (Pause)

1 A. Would you mind repeating your
2 question.

3 Q. Sure. The IC3 services, would they
4 fall under tier 3 services under a PBIS model?

5 A. Yes.

6 Q. You did not review the contracts for
7 the two providers for IC3 services; correct?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: No.

10 BY ATTORNEY BELINFANTE:

11 Q. And -- okay. If you can turn to
12 page 34.

13 A. (Witness complies with request.)

14 Q. And this is an example, but it's
15 kind of more of a generalized question. Midway
16 into that paragraph right after footnote 104, you
17 write, "State officials have recognized that
18 Georgia needed more staff capacity to deliver IC3."

19 Do you see that?

20 A. Yes.

21 Q. There you cite in footnote 105, the
22 Wendy Tiegreen deposition.

23 Do you see that?

24 A. Yes.

25 Q. Can I presume that when you are

1 citing Wendy Tiegreen's deposition, that
2 Ms. Tiegreen's deposition is the only basis of your
3 conclusion dollars sentence?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: I don't believe so.

6 BY ATTORNEY BELINFANTE:

7 Q. So what else led you to the
8 conclusion that state officials have recognized
9 that Georgia needed more staff capacity to deliver
10 IC3?

11 A. I actually sat in on Chad Jones's
12 deposition, which I don't believe is cited here.
13 He said the same thing.

14 Q. Okay. Anyone else?

15 A. I don't remember.

16 Q. Is there a reason why you had not
17 cited Chad Jones's deposition there?

18 A. No.

19 Q. You say in that paragraph, the last
20 sentence that "Given the two IC3 providers in prior
21 years, I have serious concerns about whether four
22 IC3 providers would have the capacity to adequately
23 serve the state's students with the highest needs."

24 Do you see that?

25 A. Yes.

1 Q. Is that based on any national ratio
2 or guidelines, your conclusion?

3 A. No.

4 Q. Let's talk about family and
5 community support, which is discussed on page 10.

6 A. Sure.

7 ATTORNEY HOLKINS: I'm sorry?

8 ATTORNEY BELINFANTE: Page 10.

9 BY ATTORNEY BELINFANTE:

10 Q. Are family and community supports
11 delivered in the school always, or are they
12 sometimes delivered at home? Do you know where
13 they're delivered in Georgia?

14 A. They could be delivered in the
15 school or delivered at home.

16 Q. Okay.

17 A. Or in a clinic.

18 Q. Okay. And then looking ahead to
19 page 37, okay. The sentence in the first full
20 paragraph that starts, "Further."

21 A. Yes.

22 Q. "Further, that same month April
23 2021, Apex providers did not deliver group
24 outpatient services in 95 percent of the schools,
25 see figure 1 below, did not conduct any diagnostic

1 assessments in 75 percent of the schools, did not
2 provide any psychiatric treatment to 56 percent of
3 the schools, see figure 3 below, and did not
4 deliver any community support of participating
5 schools." I'm sorry, "in 49 percent of
6 participating schools."

7 Do you see that?

8 A. Yes.

9 Q. Okay. Specifically about that, in
10 school year -- or in April 2021 do you know the
11 status of COVID as it was impacting schools in
12 Georgia?

13 ATTORNEY HOLKINS: Object to form.

14 THE WITNESS: The reason why I
15 selected that month, that was the highest
16 month across the entire year in terms of
17 service provision, and I wanted to be
18 fair to the state and give -- look at the
19 highest month in which they provided
20 services.

21 BY ATTORNEY BELINFANTE:

22 Q. Okay. Of the participating schools
23 that was participating in the Apex program; is that
24 correct?

25 A. That's correct.

1 Q. So community and family supports
2 were being provided outside of the Apex program,
3 that would not be picked up in your description
4 there on page 37; is that right?

5 A. That's correct.

6 Q. Okay. And did you see any -- in
7 your review -- did you find any evidence of a
8 student who was referred for family and community
9 support but denied it?

10 A. No.

11 Q. Let's go back to individual and
12 group therapy on page 11.

13 Would you agree that individuals in group
14 therapy can occur in Georgia outside of the
15 Medicaid context? Let me rephrase that.

16 Is it your understanding that students can
17 receive individual and group therapy in Georgia but
18 not have Medicaid pay for it?

19 A. Correct.

20 Q. Okay. Let's look at footnote 12
21 there on page 11.

22 A. Yes.

23 Q. The first sentence says, "It is
24 important to note that individual therapy, like any
25 appropriate intervention, must be tailored to meet

1 the individual needs of each student with EBD."

2 Do you see that?

3 A. Yes.

4 Q. How do you balance tailoring therapy
5 requirements with a goal of maintaining fidelity to
6 national standards?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: Repeat that
9 question.

10 BY ATTORNEY BELINFANTE:

11 Q. Sure. In terms of individual
12 therapy, as I read your first sentence in footnote
13 12 --

14 A. Yeah.

15 Q. -- it's individualized, because any
16 appropriate intervention must be tailored to meet
17 the individual needs of each student.

18 A. Correct.

19 Q. Do you see any tension between the
20 needs of individualized services and the need to
21 demonstrate fidelity to standards?

22 A. I'm still not sure I understand your
23 question.

24 Q. Okay. So when you talk about
25 maintaining fidelity, what do you mean?

1 "Maintaining fidelity," what does that phrase mean?

2 A. In this context, I was looking at in
3 terms of the DBHD provider manual in terms of what
4 they laid out as fidelity in terms of services.

5 Q. Okay. So if someone is staying
6 within the provider manual, that would satisfy your
7 concerns about fidelity?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: Well, there are
10 certainly interventions that we would
11 like to see that happens with the
12 intensity that is like the professional
13 expectations.

14 BY ATTORNEY BELINFANTE:

15 Q. Where would one look to find those
16 professional expectations?

17 A. One is the DBHD manual that lays out
18 in terms of what the expectations are for certain
19 services. And then, you know, I think the
20 consensus of the professional services, those
21 students with really serious emotional problems
22 should get individual therapy either weekly or
23 every other week.

24 Q. What's the basis of that latter
25 opinion, the weekly or every other week?

1 A. It would be the consensus of the
2 social workers, psychological community.

3 Q. Okay. Is that consensus identified
4 in the study cited in your report?

5 A. I don't remember.

6 Q. Okay. The first sentence of that
7 section on page 11 under "Service Intensity and
8 Fidelity," it says, "Research demonstrates the
9 effect that services must be delivered with
10 sufficient intensity and assessed for fidelity to
11 establish the standards."

12 And I think you kind of answered this as it
13 relates to individual therapy, but in terms of
14 services that you're talking about generally, is it
15 your opinion that there are fidelity measurements
16 or fidelity standards for each of the services you
17 identify in your report?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: We're talking about
20 a student with behavior-related
21 disabilities who is at serious risk of
22 restrictive educational placement.

23 That's who we're talking about, correct.

24 BY ATTORNEY BELINFANTE:

25 Q. Well, I'm just looking at that first

1 sentence. So you tell me, this research
2 demonstrates that effective services must be
3 delivered with sufficient intensity and assessed
4 for fidelity to established standards.

5 And the next sentence goes on to talk about
6 a student with behavior-related disabilities who is
7 at serious risk of restrictive educational
8 placement.

9 So if that's what you meant by the first
10 sentence, I just need to know.

11 A. Okay.

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: So that's really --
14 I mean, if you look at in terms of the
15 citation here, right, that I have, you
16 know, Bierman and Sanders that talks
17 about, you know, the need for fidelity.
18 So there are, you know, accepted
19 standards in terms of what the services
20 should be delivered with.

21 BY ATTORNEY BELINFANTE:

22 Q. And where would one look to find
23 those accepted standards?

24 A. In the professional literature. And
25 I would also say in the DBHDD provider manual.

1 Q. Okay. And in terms of the
2 professional literature, if the Court were to say
3 you have to maintain fidelity standards, how would
4 DBHDD or DOE implement that? Is there not a single
5 document you can point me to like a, you know, DOE,
6 United States Department of Education says X or
7 something of that nature, or is it I just have to
8 read a bunch of journals and come to a conclusion?

9 A. No.

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: I would say that,
12 you know, the American Psychological
13 Association would have potential
14 standards.

15 BY ATTORNEY BELINFANTE:

16 Q. Okay. You mentioned the Bierman
17 article, and you cite the Bierman article on
18 footnote 15. I'll get you a copy of that which we
19 will mark as Exhibit 4.

20 (Exhibit 4 was marked for
21 identification.)

22 Q. For the record, is this the Bierman
23 article that you were referring to?

24 A. Yes, I believe so.

25 Q. Okay. Page 14 of that article,

1 which I believe is the first page, about midway
2 through the first paragraph there, it says, "These
3 children find it difficult to initiate and sustain
4 high-quality friendships, interact comfortably in
5 the social context of the classroom and playground,
6 and avoid peer exclusion or victimization," citing
7 a MAG article from 2006.

8 Do you see that?

9 A. Yes.

10 Q. Do you agree with that conclusion?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Let's talk about
13 when they say "these children" who we're
14 talking about here.

15 BY ATTORNEY BELINFANTE:

16 Q. As I read it, it's students with or
17 at risk of emotional or behavioral disorder, but if
18 you have a different conclusion, please let me
19 know.

20 A. I just want to make sure we're
21 talking about the same thing.

22 Q. So with those students, do you agree
23 with the characterization that the authors make
24 that I read?

25 A. Yes.

1 Q. On page 15, the first sentence says,
2 "However, to date evidence-based social-emotional
3 skill training programs are rarely used
4 systematically to provide Tier 2 services in
5 schools to the 15 to 20 percent of children
6 experiencing significant peer difficulties."

7 Do you see that?

8 A. No.

9 Q. First sentence on page 15.

10 A. Okay, yeah, okay, yeah.

11 Q. Do you agree with that statement?

12 A. No.

13 Q. Yes?

14 A. No, I don't agree with it.

15 Q. What is your disagreement with it?

16 A. That schools do use some
17 evidence-based programs, so I would, you know,
18 disagree with the rarely used systematically.

19 Q. Do you know roughly what percentage
20 of schools in the United States use evidence-based
21 social-emotional skill training programs?

22 A. I don't.

23 Q. It says that about 15 to 20 percent
24 of children experiencing significant peer
25 difficulties would need Tier 2 services. Do you

1 agree with that number?

2 ATTORNEY HOLKINS: Object to form.

3 THE WITNESS: Yes. Actually, let
4 me correct. I would say it's more in the
5 ballpark between 5 and 10 to 15 percent.

6 BY ATTORNEY BELINFANTE:

7 Q. Okay. Page 16 of the article, the
8 second sentence under the heading "Processes
9 Supporting or Impending Self-Regulatory
10 Development," the second sentence says, "Students
11 with or at risk of EBD are more likely than
12 students without disabilities to live in poverty,
13 have a single or unemployed parent, and have
14 another household member who has a disability."

15 Do you see that?

16 A. Yes.

17 Q. Do you agree with that statement?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: Yes.

20 BY ATTORNEY BELINFANTE:

21 Q. If you'll look on that same page
22 over in the next column, one, two, three, fourth
23 full paragraph, begins, "Peers also influence
24 developing social-emotional and self-regulation
25 skill development in schools characterized by high

1 levels of student disadvantaged, e.g., high levels
2 of student poverty and low levels of student
3 achievement, rates of classroom destructive
4 behavior are elevated," citing a power study from
5 2015._

6 Do you agree with that?

7 A. Yes.

8 Q. Do you agree with the statement by
9 Dr. Bierman and Dr. Sanders right there?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: Well, I think you
12 need to read the rest of that paragraph.

13 Do you want me to do that?

14 BY ATTORNEY BELINFANTE:

15 Q. Sure.

16 A. "When children are in classrooms
17 with many aggressive classmates, they're likely to
18 show increased aggression over time likely due to
19 increased peer modeling and reinforcement of
20 disruptive-aggressive behaviors and social norms
21 that reduce social censure for these behaviors,"
22 which really speaks to when you have students in
23 alternative settings, restrictive settings.

24 They -- this is what you see.

25 So this really, from my perspective comes

1 to why we want to have these students educated with
2 their typical peers because in restrictive settings
3 this is what I've seen over and over again is
4 basically children who are in classrooms with many
5 aggressive classmates that are likely to show
6 increased aggression over time, likely to increase
7 peer modeling and reinforcement of disruptive, and
8 that's why you see the Y trajectories of kids in
9 more restrictive settings to be not as good as in
10 typical settings.

11 Q. Doctor, this paragraph in this
12 report -- and by "this report" I mean the Bierman
13 and Saunders article -- is not talking about
14 restrictive settings, is it?

15 A. When you look at it in terms of that
16 sentence, what they're describing is restrictive
17 settings.

18 Q. Where?

19 A. When children are in classrooms with
20 many aggressive classmates, which is what you see
21 in restrictive settings, they are likely to show
22 increased aggression over time.

23 ATTORNEY COHEN: Hey, hey, hey.

24 Slow down.

25 THE WITNESS: Sorry.

1 This is really what they're
2 describing in terms of restrictive
3 settings.

4 BY ATTORNEY BELINFANTE:

5 Q. It says here that they are saying
6 schools characterized by high levels of student
7 disadvantaged, e.g., student poverty and low levels
8 of student achievement. Where do you get
9 restrictive settings out of what they describe in
10 the previous sentence?

11 A. Because --

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: That last sentence
14 talks about when children are in
15 classrooms with many aggressive
16 classmates, which is what I see in these
17 restrictive settings. Likely due to
18 increased peer modeling and reinforcement
19 of disruptive-aggressive behaviors and
20 social norms that reduce social censure
21 for these behaviors.

22 BY ATTORNEY BELINFANTE:

23 Q. Those behaviors, aggressive
24 classmates, et cetera, are also present in general
25 education classrooms; correct?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: But much less so.

3 BY ATTORNEY BELINFANTE:

4 Q. In terms of the general education
5 classrooms, at least this article is suggesting
6 that they are more prevalent in schools
7 characterized by high levels of student
8 disadvantaged, i.e, high levels of student poverty
9 and low levels of student achievement.

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: Well, I would also
12 say that if you look at PBS schools with
13 full implementation, at least at
14 Tier 1 versus PBS or non-PBS schools that
15 you really see less rates of classroom
16 disruptive behavior.

17 BY ATTORNEY BELINFANTE:

18 Q. Okay. But in your experience, would
19 you say that you see more disruptive behavior in
20 schools that are characterized by high levels of
21 student disadvantage?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: I think you have to
24 look at the context in terms of what's
25 happening in those schools.

1 BY ATTORNEY BELINFANTE:

2 Q. This idea that they are talking
3 about is, I think it's called peer contagion. Is
4 that a fair statement?

5 A. Yes.

6 Q. The students will act like their
7 peers in the classroom. Is that a fair way to
8 describe it?

9 A. That's correct.

10 Q. And that's not unique to segregated
11 settings. That happens in general education
12 classrooms as well; is that right?

13 A. Yes.

14 Q. Okay.

15 ATTORNEY HOLKINS: We can put this
16 one aside?

17 ATTORNEY BELINFANTE: Yes.

18 BY ATTORNEY BELINFANTE:

19 Q. Let's go to page 12 of your report,
20 Exhibit 1.

21 A. May I take a quick break? Use the
22 restroom?

23 Q. Sure.

24 THE VIDEOGRAPHER: We are going
25 off the record at 13:54.

1 (Recess taken from 1:54 p.m.
2 to 2:08 p.m.)

3 THE VIDEOGRAPHER: We are back on
4 the record at 14:08.

5 BY ATTORNEY BELINFANTE:

6 A. Can we go back to that individual
7 therapy?

8 Q. Sure.

9 A. You asked me about a standard. So
10 if you could turn to page 51 of my report.

11 Q. 51?

12 A. Yes.

13 Q. Yes, sir.

14 A. So this looks at students in GNETS,
15 enrolled in GNETS in SY20 who received individual
16 counseling during 2017, the amount of individual
17 counselings that students receive in 365 days
18 before. And the students in GNETS, according to
19 the GNETS rule, are the most serious students in
20 Georgia.

21 And if you look at in terms of the
22 percentage of what services those particular
23 students receive, and, you know, one is you can
24 look at, you know, two to less than five, which is
25 probably 75 percent of the kids. I don't know

1 anyone who would basically, you know, worked with
2 the most serious emotionally disabled students for
3 the state would have an intervention for those that
4 would only take two to five sessions.

5 Q. Do you know of anyone who was
6 recommended for more sessions and denied it, or did
7 you see evidence of anyone, students, who were
8 recommended for more sessions and denied it?

9 A. No. Why don't we refer to
10 figure 14, which is varied so that you wanted to
11 look at that year, those students in SY20, this is
12 students in SY22, and again, 365 days, again you
13 can see, you know, about, you know, 75 percent of
14 those students get two to five sessions.

15 So, you know, I don't know of an
16 intervention for the most seriously disabled,
17 behaviorally disabled students in the state that
18 they would respond to in two to five sessions.

19 Q. But even considering figure 14, that
20 doesn't show you any student who was recommended
21 for more services and denied that; correct?

22 A. That's correct.

23 Q. Okay. And -- go ahead.

24 A. It doesn't say that those services
25 were made available to them and was denied.

1 Q. Okay. Figure 13 and figure 14 both
2 look at Medicaid data; is that right?

3 A. That's correct.

4 Q. So that would not include individual
5 therapy or counseling sessions that was provided in
6 a school system or otherwise for which Medicaid is
7 not the payer; isn't that right?

8 A. That's correct. But if you look at
9 my report, over 80 percent of the students that are
10 enrolled in GNETS have availability of Medicaid.
11 And there's an opportunity to a state in terms of
12 my recommendations to actually provide those
13 services to those particular, because they have the
14 availability of Medicaid as a funding source.

15 Q. And to that point, the availability
16 of Medicaid is different from not having access.
17 In other words, they could -- your report
18 recommends that we use Medicaid for those services.
19 Your report tracks Medicaid utilization, but it
20 doesn't look at non-Medicaid spending for those
21 services; correct?

22 A. Correct. Again, what we're
23 suggesting is the state take advantage of the
24 Medicaid spending because any state dollars that
25 goes into Medicaid, it's -- they get three times

1 the amount in terms of efficiency.

2 Q. And -- okay. As long as there are
3 providers to agree to the Medicaid program and
4 providing services pursuant to it; correct?

5 ATTORNEY HOLKINS: Object to form.

6 THE WITNESS: Correct.

7 BY ATTORNEY BELINFANTE:

8 Q. If we could, let's go back to the
9 early -- I'm sorry, page 12, early identification.
10 Page 12 of your report, Exhibit 1.

11 The first paragraph there under Number 2
12 early identification, that's describing situations
13 that are not unique to Georgia; correct?

14 ATTORNEY HOLKINS: Object to form.

15 THE WITNESS: What specifically
16 are you talking about?

17 BY ATTORNEY BELINFANTE:

18 Q. Well, the first sentence says,
19 "research disrates that while some schools offer
20 some mental health services, many students who need
21 these services do not receive them."

22 That's not unique to Georgia, is it?

23 A. That's correct.

24 Q. And the research that demonstrates
25 it, you're not citing research that is limited to

1 Georgia; correct?

2 A. Correct.

3 Q. All right. The next, the same would
4 be true of the next sentence, that even if a child
5 is identified as needing additional supports,
6 teachers may lack training and resources to provide
7 evidence-based social skills intervention. That's
8 a national phenomenon and not one that is unique to
9 Georgia; correct?

10 A. Correct.

11 Q. All right. And the same is true of
12 the last sentence, "In addition, schools pay face
13 competing demands such as academic achievement for
14 standardized testing that may take priority over
15 social-emotional development and mental health."

16 That is a national conclusion; correct?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: Correct.

19 BY ATTORNEY BELINFANTE:

20 Q. All right. And is it your opinion
21 that it's illegitimate that schools -- is that
22 those competing demands that you identify, academic
23 achievement or standardized testing are
24 unimportant?

25 ATTORNEY HOLKINS: Object to form.

1 THE WITNESS: No.

2 BY ATTORNEY BELINFANTE:

3 Q. Okay. And is it your conclusion
4 that schools facing those competing demands, LEAs
5 or schools themselves have to make the decisions
6 and balance how to balance the competing demands?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: Can you ask that
9 question again.

10 BY ATTORNEY BELINFANTE:

11 Q. Is it your opinion that schools or
12 LEAs are the ones that are charged with balancing
13 those competing demands?

14 A. Yes.

15 Q. Footnote 17 on page 13.

16 A. Footnote 17?

17 Q. Yes.

18 A. Yes.

19 Q. Yoshikawa article.

20 A. Yes.

21 Q. That -- and I'm just going based on,
22 candidly, the title. I did not get a chance to
23 read that one. Is the Yoshikawa article about
24 preschool alone?

25 A. I would have to look at the article.

1 Q. Okay. Do you have an understanding
2 of any role that the Georgia Department of
3 Education plays in preschool education in Georgia?

4 A. I'm not clear about that.

5 Q. Okay. Let's go to the section "The
6 Harms of Segregation" beginning on page 13.

7 A. Okay.

8 Q. You say in the second sentence,
9 "Students who were removed from the general
10 education setting for significant periods have less
11 exposure to general education, academic curriculum,
12 and few interactions with students without
13 disabilities."

14 Do you see that?

15 A. Yes.

16 Q. What did you mean by "significant
17 periods"?

18 A. Well, one would be stand-alone
19 programs or more than 50 percent of the time out of
20 general education.

21 Q. And there you cite the Dishion
22 article. Thomas Dishion in footnote 21.

23 A. Dishion --

24 ATTORNEY HOLKINS: Footnote 21
25 does not. I'm just confused. That's

1 later in the paragraph and it's
2 unattached to the --

3 ATTORNEY BELINFANTE: I've moved
4 on.

5 ATTORNEY HOLKINS: I'm sorry.

6 BY ATTORNEY BELINFANTE:

7 Q. Footnote 21, it's Dishion?

8 A. Yes.

9 Q. Let me show you that article, which
10 we'll mark as Exhibit 5.

11 (Exhibit 5 was marked for
12 identification.)

13 BY ATTORNEY BELINFANTE:

14 Q. That's the article that you
15 referenced?

16 A. Yes.

17 Q. This article does not distinguish
18 between general education settings and separate
19 settings; correct?

20 ATTORNEY HOLKINS: Object to form.
21 The article is maybe 40 pages. Is there
22 a specific portion of the article you're
23 referencing?

24 ATTORNEY BELINFANTE: All of it.
25 I'm asking if the article itself

1 separates or addresses segregated
2 settings as has been described in the
3 report.

4 THE WITNESS: I have to really
5 look at it.

6 BY ATTORNEY BELINFANTE:

7 Q. Would you agree with me -- well, the
8 article will speak for itself, correct, in terms
9 of --

10 ATTORNEY HOLKINS: Object to form.

11 Q. You would agree with me that if it
12 does speak to -- well, why -- how long would it
13 take you to look at it? Do you need to read the
14 whole article?

15 A. It's a long article.

16 Q. That's fine. We'll leave it at
17 that. It will just speak for itself.

18 Let's look at page 14. The second sentence
19 there says, "I have repeatedly seen students
20 achieve better social-emotional and behavioral
21 outcomes and academic performance when they are
22 placed in inclusive settings."

23 Do you see that?

24 A. Yes.

25 Q. Is that because the inclusive

1 setting was the most appropriate for that student?

2 ATTORNEY HOLKINS: Object to form.

3 THE WITNESS: Can you repeat that
4 question.

5 BY ATTORNEY BELINFANTE:

6 Q. Sure. For those students that
7 you've seen achieve better social-emotional and
8 behavioral outcomes in academic performance in
9 inclusive settings, did someone determine that that
10 inclusive setting was the most appropriate
11 placement for their needs?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: In some cases the
14 recommendation for the IEP team was to
15 move to a more restrictive placement.
16 The school administration asked me to get
17 involved and develop -- use what I have
18 written in my report and suggested, and
19 have the student be maintained in an
20 exclusive -- in an inclusion setting.

21 So that's really where it comes.
22 It's basically not, you know, that you
23 know -- that's been my career is helping
24 school districts just like I did in the
25 Brockton study to basically support kids

1 with inclusion settings.

2 BY ATTORNEY BELINFANTE:

3 Q. Dollars case you concluded that an
4 inclusive setting was the most appropriate for
5 their needs; correct?

6 ATTORNEY HOLKINS: Object to form.

7 THE WITNESS: No. The IEP team
8 concluded that.

9 BY ATTORNEY BELINFANTE:

10 Q. Okay.

11 A. But they had supports around them to
12 be able to make that decision.

13 Q. If you look at the last sentence, it
14 says, "Indeed, the consensus among professionals
15 who work with these students, including myself, is
16 that in most cases they can be served in integrated
17 settings in their home schools and attend classes
18 with general education students provided they
19 receive proper support."

20 Do you see that?

21 A. Yes.

22 Q. Any quantification to in most cases?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: I'm saying in most
25 cases. That's what I'm saying.

1 BY ATTORNEY BELINFANTE:

2 Q. So 50 plus one?

3 A. I would say more than that.

4 Q. Okay. Do you have any
5 quantification of that?

6 ATTORNEY HOLKINS: Same objection.

7 THE WITNESS: Probably at least
8 90 percent.

9 BY ATTORNEY BELINFANTE:

10 Q. And I notice there's no citation
11 there. Is that based on a specific report, is that
12 based on anything specific?

13 A. It's based on the vast literature
14 that's available then.

15 Q. Okay. And that literature would be
16 cited in your report?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: Some is cited in my
19 report, yes. On the harms of
20 segregation.

21 BY ATTORNEY BELINFANTE:

22 Q. Okay. You're saying a majority of
23 all students with EBD could be served in integrated
24 settings if they were given proper support?

25 A. Can you repeat that question.

1 Q. Sure. In looking at the students
2 that you're referring to that you're opining in
3 most cases can be served in integrated settings,
4 are you talking about students with EBD?

5 A. Correct. If we read the whole
6 sentence, provided they receive proper support.

7 Q. Those proper supports could include
8 time out of the general education classroom,
9 though; correct? In other words -- and I'm talking
10 in a school day, so not what they do at home.

11 But for a period a day they go to a
12 different classroom. Would that still be
13 considered attend class with general education
14 students?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Yes.

17 BY ATTORNEY BELINFANTE:

18 Q. Okay. Looking at page 14, the
19 section on factors that put students with
20 behavior-related disabilities at higher risk of
21 restrictive placement. Your first sentence reads,
22 "Students at the highest risk of placement in
23 segregated educational settings typically are those
24 whose behavior include aggression, violence, severe
25 defiance and disruption, property damage or

1 elopement, running away from a classroom or
2 building."

3 Do you see that?

4 A. Yes.

5 Q. Would you agree that students who
6 display those behaviors can reasonably be punished
7 by a school system?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: What do you mean,
10 "punished"?

11 BY ATTORNEY BELINFANTE:

12 Q. I think -- what is the term we're
13 talking, ODR. That they could have an ODR
14 incident, and that would be reasonable under the
15 circumstances.

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: Could you rephrase
18 that question, because you asked a couple
19 sentence --

20 BY ATTORNEY BELINFANTE:

21 Q. Students' behaviors include
22 aggression, violence, severe defiance, disruption,
23 property damage or elopement, would it be
24 reasonable for those students to have an ODR
25 incident?

1 ATTORNEY HOLKINS: Object to form.

2 Q. Am I using that phrase correctly,
3 ODR?

4 A. Office disciplinary referral. That
5 depends on the severity of the program.

6 Q. So there are circumstances where ODR
7 would be appropriate for students displaying those
8 behaviors?

9 A. Yes.

10 Q. And that has to be an individualized
11 determination; correct?

12 A. Yes. Oftentimes it's the teacher
13 that makes that determination.

14 Q. All right. You say in the last
15 paragraph on that page, "In elementary and
16 secondary school when teachers do not have
17 sufficient support or training, they often use
18 exclusionary discipline such as office disciplinary
19 referrals, ODRs, and in and out of school
20 suspension, ISS and OSS to remove such students
21 from the classroom."

22 Do you see that?

23 A. Yes.

24 Q. What would constitute sufficient
25 support or training, and where would one look to

1 determine that standard?

2 ATTORNEY HOLKINS: Object to form.

3 THE WITNESS: Well, what's used,
4 PBS, positive behavior intervention
5 supports. If, in fact, PBS at Tier 1 was
6 implemented to fidelity as measured by
7 one of the fidelity tools that is on the
8 PBS.org site and, in fact, there's
9 reference in Georgia, that if that was in
10 place, that oftentimes provides guidance
11 and what we would call sufficient support
12 to reduce the amount of exclusionary
13 discipline dollars school classroom.

14 BY ATTORNEY BELINFANTE:

15 Q. Anything other than PBIS that would
16 provide the sufficient support or training?

17 A. Usually within, you know, they could
18 receive classroom management training that embodies
19 PBS principles.

20 Q. Anything else?

21 A. That's primarily.

22 Q. Okay. May Institute provides that
23 kind of training; correct?

24 ATTORNEY HOLKINS: Object to form.

25 Q. PBS training?

1 A. Yes.

2 Q. Do you know what the risks are of
3 what it would charge a school district for that?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: It depends on the
6 school.

7 BY ATTORNEY BELINFANTE:

8 Q. Is it based on population? I mean,
9 is there a formula to it? I'm not trying to get
10 into any protective information.

11 A. No, no. But, I mean, I think the
12 National Technical Assistance Center has come up
13 with -- it could be five to \$10,000 per school.

14 Q. Okay. And is that for one-time
15 training?

16 A. Well, really the goal is to build
17 capacity at the state level. Because we have
18 studies that show when you build capacity at the
19 state level in terms of building it out in terms of
20 training and coaches, that you have better
21 stability and it becomes less expensive the more
22 you do it.

23 So one of the critical things is the state
24 endorsing this and the state doing appropriate
25 training and then building out coaching cadres in

1 terms of that as well as building internal capacity
2 for the school, so that's basically it. That's
3 training school staff in terms of doing that.

4 Q. Okay. Footnote 23 on page 15 cites
5 Daniel, is it Loosen?

6 A. Losen.

7 Q. Losen article?

8 ATTORNEY COHEN: Is it Exhibit 6?

9 ATTORNEY BELINFANTE: It is.

10 You've figured out my method. It's so
11 mysterious, I know.

12 (Exhibit 6 was marked for
13 identification.)

14 BY ATTORNEY BELINFANTE:

15 Q. This is the article that it cites;
16 is that right?

17 A. Yes, I believe so.

18 Q. Okay. If you turn to page 1 of the
19 article, which is, I guess, the fifth page of the
20 exhibit.

21 A. (Witness complies with request.)

22 Q. This is the page titled Discipline
23 Policies?

24 A. That's it, yes.

25 Q. It says in your report, quotes

1 dollars second full paragraph, second sentence,
2 "Disruptions tend to increase or decrease with the
3 skill of the teacher in providing engaging
4 instruction and in managing the classroom, areas
5 many teachers say they would like help improving."

6 Do you see that?

7 A. Correct.

8 Q. Okay. How does -- if the state
9 Department of Education were to say you know what,
10 Dr. Putnam is right, Dr. Losen is right, or
11 Mr. Losen, I'm not sure which is what.

12 A. Dr. Losen.

13 Q. How is the state supposed to decide
14 how teachers engage in instruction. In other
15 words, I'm trying to take what is in this and put
16 it into something practical.

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: What's the question
19 again?

20 BY ATTORNEY BELINFANTE:

21 Q. How does a state -- if a state wants
22 to agree and accept this statement, the disruptions
23 tend to increase or decrease with the skill of the
24 teacher in providing engaging instructions, how is
25 the state supposed to implement something to ensure

1 that teachers in the classrooms across the state
2 are providing engaging instruction in the
3 classroom?

4 ATTORNEY HOLKINS: Same objection.

5 THE WITNESS: Well, one, I think
6 if they implemented PBS in their schools
7 with fidelity -- and, again, I think
8 we're talking about those students at
9 risk of GNETS. So a state has the
10 ability to track office discipline
11 referrals. They have the ability to look
12 at in terms of where they are coming
13 from, and they certainly could
14 potentially target and provide incentives
15 and influence schools in terms of
16 enrolling in terms of PBS.

17 BY ATTORNEY BELINFANTE:

18 Q. Okay. PBS -- PBS level -- excuse
19 me -- PBS Tier 1, or it would have to be PBS
20 Tier 1, 2 and 3?

21 A. Tier 1 is primarily looking at
22 classrooms.

23 Q. Okay. So Tier 1 would be sufficient
24 for engaging instruction?

25 A. Well, the goal at Tier 1 is really

1 to look at really changing staff behavior, and
2 that's really all we're talking about changing
3 staff behavior in terms of that.

4 So that's the goal is that we oftentimes
5 see reductions in office discipline referrals when
6 Tier 1 is implemented, and it's not oftentimes.
7 Basically we've had a lot of research that
8 demonstrates schools that implement with
9 Tier 1 fidelity see less office discipline
10 referrals than exclusionary disciplines.

11 Q. In your experience, are there states
12 you work with that you would say are a model for
13 Tier 1 PBIS implementation?

14 A. There are a number of states. I'm
15 not sure that I can pick out one.

16 Q. Can you give me a few examples of
17 them.

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: I think state of
20 Vermont does a pretty good job.

21 BY ATTORNEY BELINFANTE:

22 Q. Do you know roughly how many schools
23 are in the state of Vermont?

24 A. No.

25 ATTORNEY HOLKINS: Object to form.

1 Q. Page 14 and 15 of your report --

2 A. Are we done with this?

3 Q. Yes, sir.

4 A. Okay.

5 Q. Generally this section talks about
6 tracking principals to see, looking at suspensions
7 and ODRs, et cetera --

8 ATTORNEY COHEN: Tracking
9 principals, p-a-l-s?

10 ATTORNEY BELINFANTE: Yes.

11 THE WITNESS: Where are you
12 talking about?

13 BY ATTORNEY BELINFANTE:

14 Q. That's what I was looking for. It's
15 actually 15 to 16. Last sentence on the page
16 begins "Research demonstrates that tracking
17 principals from one school to another, principals
18 will build out high numbers of suspensions and
19 expulsions in one school would do the same with the
20 next."

21 Do you see that?

22 A. Yes.

23 Q. Okay. What it is your understanding
24 of -- do you have an understanding or an opinion as
25 to whether anyone in Georgia -- and by "anyone" I

1 mean, organizations, LEAs, state DOE -- has an
2 obligation under current -- under the current
3 situation to provide the tracking that you're
4 addressing in this report?

5 ATTORNEY HOLKINS: Object to form.
6 What do you mean by "under the current
7 situation"?

8 Q. In Georgia today do you have an
9 opinion as to whether an LEA or the state is
10 required to track principals as you described?

11 A. From what I understand, the State of
12 Georgia has schools' complete disciplinary
13 information for every school that goes to the State
14 of Georgia.

15 Q. Is that sufficient information in
16 terms of what you're describing about tracking
17 principals from one school to another?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: Not sure I
20 understand the question.

21 BY ATTORNEY BELINFANTE:

22 Q. Okay. Basically you've described
23 what you think Georgia is doing now in terms of
24 collecting data.

25 A. Yes.

1 Q. My question is, is that sufficient
2 to meet what you're describing on paragraphs 15 and
3 16 of your report?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: What I mean is
6 Georgia collects information on
7 suspensions and expulsions by school, and
8 my assumption would be by principal. And
9 they could use that information to look
10 at where they want to target their
11 professional development to improve
12 school climate.

13 BY ATTORNEY BELINFANTE:

14 Q. So what that data collection is
15 really going to or the purpose of the data
16 collection would be to train school administrators
17 like principals. Is that correct?

18 A. Yes.

19 ATTORNEY HOLKINS: Object to form.

20 THE WITNESS: They have what's
21 considered dangerous schools in Georgia,
22 which has a certain criteria that would
23 be -- which I believe would be
24 suspensions and expulsions. Georgia
25 tracks that at this particular point in

1 time. And I think Georgia suggests some
2 interventions around those seriously
3 persistent, dangerous schools.

4 BY ATTORNEY BELINFANTE:

5 Q. What is your understanding of the
6 authority of the state Department of Education to
7 hire and fire principals?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: I don't know.

10 BY ATTORNEY BELINFANTE:

11 Q. Okay. Looking at MTSS and PBIS, we
12 talked about this a little bit earlier on pages 16
13 and 17 of your report, where would one look for an
14 accepted standard definition of MTSS?

15 ATTORNEY HOLKINS: Objection.

16 Asked and answered.

17 THE WITNESS: I would certainly
18 look to the federal Department of
19 Education.

20 BY ATTORNEY BELINFANTE:

21 Q. Okay. To your knowledge, to your
22 knowledge, is the state Department of Education
23 doing anything to prevent LEAs from adopting MTSS?

24 A. No.

25 Q. Is the same true of the Department

1 of Community Health and Department of Behavioral
2 Health and Developmental Disabilities?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: What are you asking?

5 BY ATTORNEY BELINFANTE:

6 Q. I can ask it differently.

7 To your knowledge, is the Department of
8 Community Health or the Department of Behavioral
9 Health and Disabilities doing anything to prevent
10 LEAs from adopting MTSS?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: No.

13 BY ATTORNEY BELINFANTE:

14 Q. Do you know roughly how many schools
15 in the United States have adopted PBIS or what
16 percentage?

17 A. Through the National Technical
18 Assistance Center, there's probably about a little
19 less than 30,000 schools, but that doesn't count
20 many other schools that are doing PBS. It just
21 basically counts the schools that the National
22 Technical Assistance Center providers have some
23 involvement.

24 Q. And would the other schools be
25 private, or they are just not involved with the

1 national center?

2 A. Could you repeat that.

3 Q. Of the schools that are not involved
4 in the national center --

5 A. Yeah.

6 Q. -- are they -- I mean, is it all
7 private schools, or could it be public schools not
8 involved in the national center?

9 A. Yeah, it could be any school.

10 Q. Okay. Got it. Let me show you what
11 we'll mark as Exhibit 7.

12 (Exhibit 7 was marked for
13 identification.)

14 A. Thank you.

15 Q. Have you seen this document before,
16 Doctor?

17 A. I believe so.

18 Q. Okay. Is this --

19 A. It was a while ago.

20 Q. Down at the bottom here, PBIS, is
21 this the technical center you're talking about?

22 A. That's correct.

23 Q. If I turn to the second page of this
24 document, it says that PBIS is a multi-tier
25 behavior system currently implemented in over

1 26,000 schools.

2 Do you see that?

3 A. Yes.

4 Q. Okay. And that's consistent with
5 what you said about being just around shy of
6 30,000?

7 A. That's correct.

8 Q. Okay.

9 ATTORNEY HOLKINS: It may help if
10 we just introduce what this document is
11 for the record.

12 ATTORNEY BELINFANTE: Document
13 appears to be a fact sheet interconnected
14 systems framework 101 and introduction
15 from the mental health technology
16 transfer center network.

17 ATTORNEY COHEN: Is there a date
18 for this -- for this document?

19 ATTORNEY BELINFANTE: I can't
20 recall if it was one we pulled from the
21 report or if we just pulled on our own.
22 I think the document, at least, speaks
23 for itself. If I can find another date
24 or something, we'll get it to you.

25 ATTORNEY HOLKINS: Thank you.

1 BY ATTORNEY BELINFANTE:

2 Q. All right. I'm going to now show
3 you what we'll mark as Exhibit 8 -- you can hold on
4 to it. I'm going to go back to it. Exhibit 8 is
5 pretty quick.

6 (Exhibit 8 was marked for
7 identification.)

8 Q. An article from Education Week.
9 That is not in your report?

10 A. Okay.

11 Q. And the only thing I have a question
12 here is are you familiar with Education Week?

13 A. Yes.

14 Q. Okay. Do you find it to be
15 generally reliable --

16 ATTORNEY HOLKINS: Object to form.

17 Q. -- information?

18 A. Sometimes.

19 Q. Fair enough. I would say that about
20 just about everything.

21 Let me ask you to turn to the second page
22 of the article where it just says there's 128,961
23 public and private K-12 schools in the U.S.

24 Do you see that?

25 A. Yes.

1 Q. Okay. Do you generally -- does that
2 seem like a reasonable number to you?

3 A. I've known it as less than that, but
4 probably doesn't include any private K to 12
5 schools.

6 Q. If you turn and look at page 3, they
7 break it down a little more between traditional
8 public, public charters schools, and total public
9 schools at 98,469.

10 Do you see that. They break it down above?

11 A. And that's probably what I would
12 tend to say.

13 Q. A reasonable number?

14 A. Yes.

15 Q. All right. Going back to the
16 question of how widespread is PBIS implemented
17 being 26,000 schools, roughly, somewhere between 26
18 and 30,000 we'll say, does that include -- is that
19 public and private schools, do you know, that
20 number?

21 A. We don't really track private
22 schools.

23 Q. Okay. So --

24 A. We're using the public schools'
25 database because that's, you know, private schools

1 don't have to register with the Department of
2 Education. They are outside, so we tend to use the
3 federal Department of Education database.

4 Q. Okay. And so when you say "we," do
5 you mean the National Technical Assistance?

6 A. Yeah. I mean, it's just that
7 database not available for us.

8 ATTORNEY BELINFANTE: Patrick,
9 Exhibit 7 is the reference on footnote
10 33.

11 ATTORNEY HOLKINS: On page 18 of
12 his report?

13 ATTORNEY BELINFANTE: Yes.

14 THE WITNESS: I'm sorry, I'm lost.

15 ATTORNEY HOLKINS: On page --
16 that's the article cited on footnote 33.

17 THE WITNESS: Yes.

18 BY ATTORNEY BELINFANTE:

19 Q. All right. I think we can put away
20 Exhibit 7 for a minute.

21 ATTORNEY COHEN: Did you
22 mark Education Week?

23 ATTORNEY BELINFANTE: I did, I
24 believe.
25

1 BY ATTORNEY BELINFANTE:

2 Q. Doctor, looking at questions of
3 PBIS, let's take Tier 1, for example, and this is a
4 hypothetical. Could two school districts adopt
5 PBIS Tier 1 and have different strategies but still
6 maintain fidelity to PBIS Tier 1?

7 A. Can you explain to me -- could you
8 repeat that question, I'm not sure I understand the
9 question.

10 Q. If there's two school districts and
11 both agree that they wanted to adopt and implement,
12 let's say, PBIS Tier 1 --

13 A. Yes.

14 Q. -- could they do it in a way -- does
15 it have to be done the exact same way in order to
16 maintain fidelity, or does fidelity allow for some
17 discretion in the local school district?

18 A. Well, the advantage of PBS is it's
19 organically developed by the school to fit the
20 context and the culture of the school. However,
21 there's the tier fidelity inventory measure that
22 measures the components of Tier 1 that we would
23 expect to see reach fidelity in order to get
24 student outcomes.

25 Q. Okay. So it's fair to say that

1 generally there's fidelity standards but within
2 those standards there's some discretion. Is that a
3 fair way to describe it?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: The goal is really
6 to look at kind of one of the problems in
7 the school. Some schools have more
8 problems with aggression or with
9 disruption and really design it based on
10 culture and context of the school.

11 BY ATTORNEY BELINFANTE:

12 Q. Okay. In looking at PBIS, if you
13 could turn to page 17, my question is going to be
14 about footnote 29.

15 A. Yes.

16 Q. And questions of ratio of praise
17 statements to error correction statements.

18 A. Yes.

19 Q. How would an LEA track the ratio of
20 praise statements to error correction statements?

21 ATTORNEY HOLKINS: Object to form.

22 THE WITNESS: An LEA, one could
23 just have their teachers count those
24 statements in their classrooms in terms
25 of praise correction. An LEA could train

1 people to go in and do brief observations
2 to be able to track that as well. So
3 that's been my experience in working with
4 LEAs.

5 BY ATTORNEY BELINFANTE:

6 Q. Have you seen that at the
7 elementary, middle, and high school levels?

8 A. Yes.

9 Q. Okay. Is there an appropriate
10 ratio, is there a national standard on what the
11 right ratio is of praise statements to error
12 correction statements?

13 ATTORNEY HOLKINS: Object to form.

14 THE WITNESS: Usually in general
15 we would say five to one, and, in fact,
16 there are Georgia documents that actually
17 say that.

18 BY ATTORNEY BELINFANTE:

19 Q. Okay.

20 A. And there are actually -- when I
21 interviewed school principals they actually said
22 that as well.

23 Q. Which school principals did you
24 interview?

25 A. I don't remember. Part of my 25

1 general ed schools that I visited.

2 Q. Okay. And do you know if all 25
3 said that or some said that?

4 A. Some.

5 Q. Okay. Can you give me a definition
6 of what services would fall under a PBIS
7 Tier 2 service?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: So typically we
10 would look at a program called Check
11 In/Check Out. Or we would look at small
12 group interventions.

13 BY ATTORNEY BELINFANTE:

14 Q. Okay. If you can go back to the
15 Bierman article, I have written Exhibit 6, but I
16 don't think that's correct.

17 ATTORNEY POLANSKY: Four.

18 ATTORNEY BELINFANTE: Thank you.

19 BY ATTORNEY BELINFANTE:

20 Q. Bierman on page 17, 18, and 19
21 describes Tier 2 skills or this is a question -- is
22 what she's describing the collaborative life skills
23 program coping power and cognitive behavior
24 intervention for trauma schools. Is that also
25 Tier 2?

1 A. I'd have to look at this in a little
2 more detail. Can I have some time to read this?

3 Q. Sure.

4 (Pause)

5 Q. Okay. So my question is, are those
6 services that they describe in the article,
7 collaborative life skills program, coping power,
8 cognitive behavior intervention for trauma in the
9 schools, your understanding of those Tier 2
10 intervention services?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Those are examples
13 of them.

14 BY ATTORNEY BELINFANTE:

15 Q. That would be in addition to what
16 you describe in your report on page 17; is that
17 right?

18 A. I'm not sure where you are now.

19 Q. Tier 2 interventions include -- this
20 is the third line from the bottom, it says Tier 2
21 interventions include the implementation of
22 standard protocols such as Check In/Check Out,
23 group therapy or small group social skills
24 interventions.

25 A. Correct.

1 Q. I just didn't know if these things
2 that Bierman talks about would fall under those
3 categories or if they are yet additional Tier 2
4 interventions.

5 A. Those would fall into Tier 2.

6 Q. Okay.

7 A. Are we done with this?

8 Q. For now, yes, sir. Page 18.

9 A. Yes.

10 Q. You describe in the first full
11 paragraph the importance of data collection
12 particularly around ODRs.

13 A. Where are you to you?

14 Q. Page 18, first full paragraph.

15 A. Okay, yes.

16 Q. Did you look at -- and we talked
17 about this a little bit ago. Did you look at the
18 data that the state DOE collects in terms of
19 disciplinary referrals, suspensions, attendance,
20 grades, and other factors?

21 A. I was I never given that data.

22 Q. Did you ask for it?

23 A. I asked for whatever they would have
24 relative to PBS. Although I asked the department
25 to get whatever data they could get relative to

1 PBS, and we got what we got.

2 Q. Okay. When you say "department,"
3 did you mean the Department of Justice or the
4 Department of Education?

5 A. I asked the Department of Justice in
6 discovery to get whatever they could relative to
7 PBS and whatever DOE was doing relative to
8 discipline or whatever.

9 Q. Okay. In terms of implementing
10 PBIS, can you turn back to Exhibit 7, which is the
11 Barrett/Eber technical assistance center document.

12 A. Yes.

13 Q. On page 2 in the column on the
14 right, the second paragraph begins, "While PBIS has
15 improved behavioral and academic outcomes for
16 students over two decades, schools often struggle
17 to provide adequate support for students displaying
18 higher level needs."

19 Do you see that?

20 A. Yes.

21 Q. Do you agree with that?

22 A. Well, it's -- first you're looking
23 to implement Tier 1, PBS and then, you know, the
24 next step at times can be, you know, it moves to a
25 little bit more intensive level.

1 Q. And the problems of providing that
2 adequate support at least as this article talks
3 about, that's occurring nationwide and not just in
4 Georgia; correct?

5 ATTORNEY HOLKINS: Object to form.

6 THE WITNESS: Correct.

7 BY ATTORNEY BELINFANTE:

8 Q. Is that possible because it is
9 difficult to implement PBIS Tier 2 and 3?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: No.

12 BY ATTORNEY BELINFANTE:

13 Q. No?

14 A. No.

15 Q. Why are schools struggling to
16 provide adequate support for students displaying
17 higher needs?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: Can you repeat that
20 question.

21 BY ATTORNEY BELINFANTE:

22 Q. Sure. If it's not because it's
23 difficult to implement, why are PBIS levels 2 and
24 3 -- why are schools often struggling to provide
25 adequate support for students displaying higher

1 level needs?

2 A. Let me correct it. It can be more
3 difficult to do that, yes.

4 Q. Okay. And why is it more difficult?

5 A. One is really training staff in
6 terms of Tier 2 interventions. Training them
7 around to do data collection in terms of that. And
8 to use the data to make databases.

9 Q. That's true in school districts
10 outside of Georgia; correct?

11 A. Yes. And a lot of times, to make it
12 clear, that a lot of times schools will implement
13 Tier 2 interventions, but they don't implement it
14 within a Tier 2 system, which is what we find is
15 basically those schools that implement that, it's
16 more effective and more efficient than just them
17 doing it isolated.

18 Q. Okay. You can -- we'll move on from
19 that document.

20 A. All right.

21 Q. Going to page 18 of your report,
22 Exhibit 1, you talk about interconnected systems
23 framework.

24 A. Uh-huh.

25 Q. And the second sentence dollars

1 paragraph under Interconnected Systems Framework
2 reads, "ISF refers to a strategic plan that
3 synergizes the efforts of different subsystems such
4 as mental health and behavior support to provide
5 holistic care for students."

6 Do you see that?

7 A. Yes.

8 Q. What did you mean by "holistic care
9 for students"?

10 A. Because we're always trying to look
11 at a student from the holistic perspective that
12 we're both looking at their academic and the social
13 behavioral concerns. So when we talk about a
14 holistic care, we're really looking at the whole
15 person.

16 Q. Okay. The next sentence reads,
17 "Instead of subsystems existing in silos through
18 the ICF, they are thought of as part a larger
19 single system that delivers a continuum support
20 based on need."

21 Do you see that?

22 A. I think it's ISF, not ICF.

23 Q. Okay. I'm sorry. But otherwise you
24 see the sentence there?

25 A. Yes.

1 Q. Does the continuum -- is there a
2 role for program like GNETS on that continuum of
3 support, in your opinion?

4 A. I want to read the line again.

5 ATTORNEY COHEN: Objection.

6 THE WITNESS: Usually in terms of
7 ISF, we're talking about the services
8 through GA DOE and services through the
9 mental health community organizations, so
10 that's really what we're talking about.

11 BY ATTORNEY BELINFANTE:

12 Q. But within that continuum of support
13 that's delivered, as you said through DOE and the
14 community providers, is there a role for GNETS and
15 GNETS-type services?

16 ATTORNEY HOLKINS: Object to form.

17 Q. In your opinion?

18 A. Well, I don't know about GNETS.
19 But, you know, there is a continuum of care, and if
20 students get the right supports in the right
21 intensity, then the continuum of care really moves
22 towards much more inclusionary setting.

23 Q. In your opinion, is there a role or
24 a place on the continuum of care for what you've
25 referred to as segregated settings?

1 A. Yes.

2 Q. Is there a role beyond segregated
3 settings for residential settings which as you
4 understand it is where a child learns on their own
5 and are much more isolated -- forget that.

6 It's not in your report. It's not in your
7 report, so I don't want to just get into it.

8 Page 19. The second full paragraph. And
9 you'll probably want to read the full paragraph for
10 context, but my question will be about the last
11 sentence. "This underscores the critical
12 importance of integrating community mental health
13 clinicians into MTSS teams so that they can
14 participate in data sharing and intervention
15 planning."

16 My questions will be about that sentence,
17 but if you want to read the paragraph, certainly
18 feel free.

19 A. Okay.

20 Q. Who would make up an MTSS team?

21 ATTORNEY HOLKINS: Object to form.

22 THE WITNESS: So I think there are
23 different levels that -- yeah. One is at
24 the school level, one might be at the
25 community level in terms of that. So

1 when we look at ISF, we're already
2 looking at, you know, ISF in some ways,
3 we're looking at DBHD, the DOE, but at
4 the school level it would be like their
5 PBS team that we would be integrating
6 community mental health into their PBS
7 team.

8 BY ATTORNEY BELINFANTE:

9 Q. Is there a role for the Georgia
10 Department of Education on an MTSS team?

11 A. Well --

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: Again, I think the
14 question comes down when we're looking at
15 ISF, we're really looking at the
16 integration between GA DOE and DBHD.

17 BY ATTORNEY BELINFANTE:

18 Q. But I'm just to -- because you used
19 the phrase "MTSS team," and I know who makes up an
20 IEP team. I'm just trying to figure out who are
21 the persons on an MTSS team.

22 A. School-wide PBS team primarily or a
23 school-wide or a district PBS team.

24 Q. Okay. Understood.

25 How would the state Department of Education

1 compel integrating community mental health
2 clinicians into an MTSS team? Do you have an
3 opinion as to whether the state -- let me start
4 over.

5 Do you have an opinion as to whether the
6 state Department of Education can compel
7 integrating community mental health clinicians into
8 an MTSS team?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: Can you ask that --
11 that's a long question.

12 BY ATTORNEY BELINFANTE:

13 Q. Do you have an opinion as to whether
14 or not the state Department of Education can compel
15 community mental health clinicians into an MTSS
16 team?

17 ATTORNEY HOLKINS: Same objection.

18 THE WITNESS: No.

19 ATTORNEY COHEN: Would you like to
20 take a break, Bob?

21 THE WITNESS: We can take a break.

22 THE VIDEOGRAPHER: We are off the
23 record at 15:07.

24 (Recess taken from 3:07 p.m.
25 to 3:19 p.m.)

1 THE VIDEOGRAPHER: We are back on
2 the record at 15:19.

3 BY ATTORNEY BELINFANTE:

4 Q. Are you ready, Dr. Putnam?

5 A. Ready to go.

6 Q. Question, Dr. Putnam, about fidelity
7 in PBIS again. Is fidelity, as you understand it,
8 based on process, or is fidelity based on outcome?

9 A. It's based on process.

10 Q. Okay. Do you have understanding --
11 and I'm going back to page 19, that last
12 sentence -- do you have an opinion as to whether
13 the Department of Behavioral Health and
14 Developmental Disabilities can require the
15 integration of community mental health clinicians
16 into MTSS teams?

17 ATTORNEY HOLKINS: Object to form.
18 Asked and answered.

19 THE WITNESS: Well, the DBHD has
20 Apex, which is the school mental health
21 program. They develop the contract with
22 the CSBs. They can certainly encourage
23 that their mental health clinicians serve
24 as part of their MTSS school MTSS teams,
25 and that's really what we mean by ISF.

1 And in some cases it's a school that
2 basically had a community health provider
3 on one of their teams.

4 BY ATTORNEY BELINFANTE:

5 Q. And you would agree with me that
6 encouraging providers is different from compelling
7 them; correct?

8 A. Well, within that DBHD Apex
9 contract, they certainly, you know, lay out what
10 the expectations are. So clearly in terms of
11 filling out the Apex data, they could put that as a
12 question, if you serve on the team and make it a
13 much clearer expectation that schools are involved
14 with, that the community mental health clinician
15 actually serves on the team.

16 Q. If the mental health clinician,
17 though, is not -- let me rephrase.

18 The Apex program is voluntary for community
19 health providers; correct? They're not required to
20 do it as part of a license or anything else. Isn't
21 that right?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: That's correct.

24 BY ATTORNEY BELINFANTE:

25 Q. Okay. So if a provider, a community

1 health or community mental health clinician who is
2 not on an Apex team, to your knowledge, is there
3 anything that the Department of Health and
4 Behavioral Health disabilities can do to require
5 that provider to participate on an MTSS team?

6 A. I'm not sure they can require, but
7 they could influence that.

8 Q. Same question for the Department of
9 Community Health. Do you have an opinion as to
10 whether the Department of Community Health can
11 require clinicians who are not contracting with
12 Apex to serve on an MTSS team?

13 A. I don't know if they can require.

14 Q. Page 19 again, the next paragraph
15 which is the last one that starts on the page, the
16 second sentence reads, "Coordination among schools,
17 mental health providers, community providers, and
18 other affiliated entities as part of an ICF is,
19 therefore, crucial for identifying students in need
20 of services and developing a full understanding of
21 the students' needs because their behaviors and
22 needs may present differently across settings."

23 Do you see that?

24 A. Yes. You mean ISF, not ICF; right?

25 Q. Did I say ICF again?

1 A. Yes.

2 ATTORNEY HOLKINS: Different case.

3 Q. If I start talking about elections,
4 you know I really lost it.

5 Dollars sentence I can pretty much, I
6 think, understand who all the folks are, but who
7 are you thinking when you said "affiliated
8 entities"?

9 ATTORNEY COHEN: I'm lost. What
10 page are you on?

11 ATTORNEY BELINFANTE: Sorry.

12 Page 19, last paragraph, second sentence.

13 ATTORNEY COHEN: Thank you.

14 BY ATTORNEY BELINFANTE:

15 Q. I'm just trying to figure out who --
16 an example of the affiliated entities that would be
17 involved in the coordination.

18 A. I think probably that's -- yeah, as
19 I think now, they may not be community providers.
20 They could be social organizations. And -- or they
21 could be parent organizations that are affiliated.
22 I mean, we're looking at the broad coordination in
23 terms of that.

24 Q. All right. Let's go to Part 5,
25 Georgia System of Care for Students with

1 Behavior-Related disabilities. Roles and
2 Responsibilities for State Agencies, page -- starts
3 on page 21.

4 A. Okay.

5 Q. We've already talked about Georgia
6 funds and administers a range of services and
7 programs for students with behavior-related
8 disabilities. We talked about that in regards to
9 GNETS in terms of what are the services and
10 programs for students with behavior-related
11 disabilities. Is that those that are described in
12 the report?

13 ATTORNEY HOLKINS: Object to form.

14 Q. Those the ones you're talking about?

15 A. I don't know which -- where you're
16 at.

17 Q. I'm sorry. Page 21.

18 A. Yes.

19 Q. First sentence. "Georgia funds and
20 administers a range of services and programs for
21 students with behavior-related disabilities."

22 A. Yes.

23 Q. Okay. Are you talking about when
24 you say the range of services and supports, is that
25 in reference to those described in your report,

1 Exhibit 1 report?

2 A. I believe so.

3 Q. Okay. Let's talk about those
4 services that are administered by DCH, Department
5 of Community Health. Can you identify those?

6 A. Those would be the Medicaid
7 services.

8 Q. Okay. Other than Apex, do you have
9 an opinion on the Medicaid services in Georgia for
10 students with behavior-related disabilities?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: That's a pretty
13 broad question. Can you make it more
14 specific?

15 BY ATTORNEY BELINFANTE:

16 Q. Sure. Did you consider the
17 provision of Medicaid services outside of the
18 context of Apex in the state of Georgia for
19 students with behavior-related disabilities? And
20 I'm talking about services for their
21 behavior-related disabilities, not if they go to a
22 children's hospital and break their leg.

23 A. Yes.

24 Q. Okay. What services did you look at
25 for students -- for students' behavior-related

1 disabilities within the Medicaid system outside of
2 Apex?

3 A. Well, clearly that the constellation
4 of services that are in the DBHD provider manual
5 are all services that could be provided outside of
6 Apex.

7 Q. Okay. Did you have an opinion as to
8 whether the services that are identified in the
9 provider manual, the DBHD provider manual, did you
10 form an opinion as to whether those services were
11 insufficient in the State of Georgia?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: Can you repeat that
14 question.

15 BY ATTORNEY BELINFANTE:

16 Q. Sure. Did you form an opinion as to
17 whether the services identified in the DBHDD
18 provider manual for students with
19 behavioral-related disabilities are sufficient? In
20 other words, is there a service that DBHDD is not
21 providing that it should be providing? Did you
22 form an opinion as to that?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: You're talking about
25 service or the intensity?

1 BY ATTORNEY BELINFANTE:

2 Q. Service.

3 A. I think the constellation of
4 services that are dollars provider manual are
5 sufficient.

6 Q. In terms of the intensity, did you
7 form an opinion based upon the provider manual
8 whether what is documented dollars provider manual
9 is sufficient?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: Where there is
12 specification of standards? I thought
13 they were sufficient.

14 BY ATTORNEY BELINFANTE:

15 Q. Okay. Did you review any individual
16 child's -- never mind. I know where that's going
17 to come up.

18 Specifically what services does the Georgia
19 Department of Education fund and administer for
20 students with behavioral-related disabilities?

21 ATTORNEY HOLKINS: Object to form.

22 Q. Let me phrase it this way: In your
23 report, did you make a conclusion or in your report
24 did you conclude that the Georgia Department of
25 Education funds and administers a range of services

1 and programs for students with behavioral-related
2 disabilities?

3 ATTORNEY COHEN: Object.

4 ATTORNEY HOLKINS: You can answer.

5 THE WITNESS: I thought there was
6 an interruption. Would you mind
7 repeating that question.

8 BY ATTORNEY BELINFANTE:

9 Q. Did your report conclude that the
10 Georgia Department of Education funds and
11 administers a range of services and programs for
12 students with behavior-related disabilities?

13 A. Primarily I've looked at the PBS
14 programs.

15 Q. Okay.

16 A. Yeah.

17 Q. Anything else? I know you said
18 "primarily." If it's in your report, then that's
19 fine. I'm trying to understand if there's anything
20 outside the report that led to your conclusion.

21 ATTORNEY HOLKINS: Object to form.

22 THE WITNESS: That's primarily
23 what I looked at.

24 BY ATTORNEY BELINFANTE:

25 Q. Okay.

1 A. On the page.

2 Q. Let's look at page 21, the last
3 sentence that starts on that page reads, "Georgia
4 DOE is responsible through its Office of Whole
5 Child Supports for assisting districts and schools
6 with their implementation of positive behavioral
7 interventions and supports, PBIS."

8 Do you see that?

9 A. Yes.

10 Q. Just to be clear, their
11 implementation refers to districts and schools; is
12 that right?

13 A. I'm looking at some of the document
14 that state also have completed a statewide fidelity
15 inventory. I don't have that listed in my report.

16 Q. All right. But in terms of the
17 entity that is actually implementing PBIS, that is
18 districts and schools; correct?

19 ATTORNEY HOLKINS: Object to form.

20 THE WITNESS: Well, actually when
21 you look at the statewide fidelity
22 inventory, it's looking at the
23 implementation of PBS at the state level.

24 BY ATTORNEY BELINFANTE:

25 Q. So is it your opinion that the state

1 is implementing -- the state Department of
2 Education has implemented PBIS?

3 A. So the -- so through the National
4 Technical Assistance Center we look at fidelity at
5 the statewide level, the district level, and the
6 individual school level. So when we're looking at
7 the implementation of PBS, we're looking at it at
8 all three levels.

9 Q. And what is the state Department of
10 Education -- how does the state Department of
11 Education implement PBIS?

12 A. I have to bring up that document. I
13 can go through it with you. It's on the PBIS
14 website, if you want, that lists what activities
15 the state should do to implement PBS.

16 Q. But this sentence says the
17 Department of Education is responsible through its
18 Office of Whole Child Support for assisting
19 districts and schools with their implementation.

20 A. Correct.

21 Q. So the districts and schools have to
22 implement PBIS in order for it to exist in Georgia;
23 correct?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Can you ask that

1 question again.

2 BY ATTORNEY BELINFANTE:

3 Q. Sure. In other words, if the state
4 Department of Education says we're going to
5 implement PBS, it doesn't end there. In order for
6 it to reach the students, there has to be some
7 implementation by districts and schools; correct?

8 A. Correct.

9 Q. Okay. Page 22 talks about at the
10 very top federal grants and Project Aware.

11 ATTORNEY HOLKINS: That's on
12 page 22?

13 ATTORNEY BELINFANTE: Georgia
14 receives federal grants --

15 ATTORNEY HOLKINS: I'm sorry.

16 ATTORNEY BELINFANTE: It's
17 elsewhere too.

18 ATTORNEY HOLKINS: Thank you.

19 BY ATTORNEY BELINFANTE:

20 Q. Do you see that?

21 A. Yes.

22 Q. Okay. Is it your understanding --
23 why don't you tell me what your understanding of
24 how Project Aware grant funds flow --

25 ATTORNEY HOLKINS: Object to form.

1 Q. -- in Georgia.

2 A. Yeah. It comes from, I believe, the
3 federal government who's SAMSA, they apply for
4 Project Aware funds that really are implementing
5 ISF in Georgia. Or in any other state that applies
6 and gets the Project Aware funds.

7 Q. Let me show you what we'll mark as
8 Exhibit 9.

9 (Exhibit 9 was marked for
10 identification.)

11 Q. What we marked --

12 A. Can you actually bring this up on
13 the website?

14 Q. That one?

15 A. Yes. I would much prefer to see
16 what's actually on the website rather than a copy.

17 Q. It looks like footnote 87.

18 A. In my report?

19 Q. Yes, sir.

20 ATTORNEY BELINFANTE: Patrick, it
21 looks like the document I gave you-all is
22 footnote 87.

23 ATTORNEY HOLKINS: Great.

24 ATTORNEY BELINFANTE: Footnote 87
25 on page 30.

1 ATTORNEY HOLKINS: Thank you.

2 BY ATTORNEY BELINFANTE:

3 Q. You know what, while he's doing
4 this, Dr. Putnam, let me ask you this: Do you know
5 of any school district in Georgia that applied for
6 Aware grants and did not receive them?

7 A. No, I'm not aware of any school
8 districts.

9 (Discussion held off the
10 record.)

11 Q. All right. Looking at the section
12 on page 22 entitled GNETS --

13 A. Page 22?

14 Q. Yes.

15 A. Thank you.

16 Q. It looks like the first footnote in
17 that section is at the end of the first sentence,
18 footnote 39, and the last footnote dollars section
19 is on page 23, and it's footnote 44.

20 Do you agree with that?

21 A. Do I agree with what?

22 Q. That the first footnote in Section 2
23 beginning on page 22 is footnote 39, and the last
24 footnote dollars section is footnote 44.

25 ATTORNEY HOLKINS: I didn't

1 understand. You're asking to confirm
2 which footnote is on which pages?

3 ATTORNEY BELINFANTE: Correct.

4 ATTORNEY HOLKINS: The first
5 footnote on page 22 is footnote 38.

6 THE WITNESS: In the GNETS
7 section?

8 ATTORNEY HOLKINS: Yes.

9 BY ATTORNEY BELINFANTE:

10 Q. What I'm looking for is basically
11 the authority or the citations you have for the
12 GNETS is exclusively footnote 39 through 44, the
13 GNETS section, II. Is that right?

14 A. I believe so.

15 Q. Okay. And each of those citations
16 is to the GNETS rule; correct?

17 A. Correct.

18 Q. Let me show you what we've marked as
19 Exhibit 10.

20 (Exhibit 10 was marked for
21 identification.)

22 Q. This is the GNETS rule that you
23 considered, Doctor. Poorly phrased. That was a
24 question.

25 Is this the GNETS rule that you considered,

1 Doctor?

2 A. I believe so.

3 Q. All right.

4 ATTORNEY COHEN: I'm sorry. What
5 number is it?

6 THE WITNESS: The one I have is in
7 a different format.

8 BY ATTORNEY BELINFANTE:

9 Q. Let's look at in this document
10 page 3.

11 A. Can I take a little bit of time to
12 look at this before? I haven't seen this in a
13 while.

14 Q. Sure.

15 (Pause)

16 A. Thank you very much.

17 Q. Looking at page 3 of that document,
18 Paragraph 4(c) of the rule, the first sentence
19 says, "The IEP team must determine that GNETS
20 services are necessary for the student to receive
21 FAPE."

22 Do you see that?

23 A. 4(c)?

24 Q. 4(a).

25 A. Okay.

1 Q. I should have taken you up on the
2 second coffee.

3 A. So 4(a)?

4 Q. "The IEP team must determine the
5 GNETS are necessary for the student to
6 receive FAPE."

7 A. Yes.

8 Q. In your review of the documents for
9 your report, did you see any situation where a
10 student was receiving GNETS services, but the IEP
11 team did not make that determination?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: I wasn't aware of
14 that.

15 BY ATTORNEY BELINFANTE:

16 Q. Okay. You opine on page 22 in the
17 middle of that full paragraph -- and the footnote
18 is the 41 -- "GNETS services are additionally
19 supposed to be available in general education
20 settings in students' zoned or other public
21 schools. In recognition of the requirement, the
22 students with documented special education needs
23 receive their education in the least restrictive
24 environment appropriate based on their individual
25 needs."

1 My question is about the citation in
2 footnote 41, which is to subparagraph 4(c) of the
3 rule.

4 A. I'm sorry. Go ahead again. Where
5 are you now?

6 Q. In your report, page 22, the
7 citation footnote 41.

8 A. "GNETS services are additionally
9 supposed to be available in general education
10 settings and the students zoned are in the public
11 schools," okay.

12 Q. Your citation to that is subsection
13 4(c) of the GNETS rule.

14 A. 4(c), okay. Different than what we
15 were just talking about.

16 Q. We were in 4(a).

17 A. Okay.

18 Q. Now we're at 4(c).

19 A. Yeah.

20 Q. 4(c) says that -- what language -- I
21 guess my question is what language in Section 4(c)
22 led you to the conclusion that GNETS services are
23 supposed to be available in general education
24 settings in the students' zoned or public schools?

25 A. I'm not sure of the question.

1 Q. Well, you cite 4(c)?

2 A. Yeah.

3 Q. As authority for the proposition
4 that GNETS services are additionally supposed to
5 be -- to be available in general education settings
6 in the students zoned or public schools.

7 My question is what language in 4(c) led
8 you to that conclusion?

9 A. Well, if you look at 4(c)(1),
10 "services provided in the general education setting
11 in the students' zoned school or public school."

12 Q. Okay. But 4(c), backing up, says,
13 "the GNETS continuum of services by environment may
14 be delivered as follows." And then lists six
15 different places.

16 A. Sorry, I don't know which document
17 what you're referring to.

18 Q. I'm back on the rule.

19 A. Yes, okay.

20 Q. 4(c), before you get to --

21 A. 4(c), okay. Yes.

22 Q. Just C.

23 A. Yes.

24 Q. It says, "The continuum of services
25 the GNETS' continuum of services by environment may

1 be delivered as follows."

2 A. Okay.

3 Q. May be delivered?

4 A. Yes.

5 Q. And then it lists six.

6 A. What's six?

7 Q. One through six?

8 A. Oh, one through six, I'm sorry,
9 okay. It's on the next page. Sorry.

10 Q. Okay.

11 A. Yeah.

12 Q. My question is, if GNETS services
13 are delivered in any one of those six, doesn't the
14 rule -- is it your understanding that the rule
15 allows GNETS services to be delivered in any one of
16 those six settings?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: Yes.

19 BY ATTORNEY BELINFANTE:

20 Q. Okay. In looking at the rule, is it
21 your opinion that the Department of Behavioral
22 Health and Developmental Disabilities has any role
23 in referring a student for GNETS services?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Can you repeat the

1 question.

2 BY ATTORNEY BELINFANTE:

3 Q. Sure. Having now looked at the rule
4 and specifically 4(a) --

5 A. 4(a), okay. We're back to 4(a)?

6 Q. Yes.

7 A. Okay.

8 Q. Is it your understanding that the
9 Department of Behavioral Health and Developmental
10 Disability plays any role in referring a student
11 for GNETS services?

12 ATTORNEY HOLKINS: Same objection.

13 THE WITNESS: Not that I'm aware
14 of.

15 BY ATTORNEY BELINFANTE:

16 Q. Looking again at 4(a), is it your
17 understanding that the Department of Community
18 Health plays any role in referring students for
19 GNETS services?

20 ATTORNEY HOLKINS: Same objection.

21 THE WITNESS: Well, the only --
22 let's back up a little bit. In my
23 report, I suggest that DBHDD and DCH
24 could provide Medicaid-available services
25 or services through Apex that in my

1 experience would influence the IEP team
2 making a referral to GNETS.

3 BY ATTORNEY BELINFANTE:

4 Q. But it would influence the IEP team,
5 but it would not -- would not be determinative of
6 the IEP team's recommendation; correct?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: I don't know what
9 you mean by "determinative."

10 BY ATTORNEY BELINFANTE:

11 Q. What did you mean by "could
12 influence"?

13 A. Well, I think if there was an Apex
14 clinician sitting on that IEP team and a staff
15 person that's trained in PBS setting, that IEP
16 team, that they may come to a different
17 determination in terms of whether the student
18 should, you know, need GNETS.

19 Q. But it's still the IEP team's
20 decision, correct, not DBHDD's or DCH's?

21 A. That's correct. But my experience
22 in doing this for 40 years is whoever sits at that
23 meeting, you know, in terms of their roles makes a
24 difference in terms of the IEP team coming up with
25 a decision.

1 Q. Who decides who sits at IEP team
2 meetings?

3 ATTORNEY HOLKINS: Object to form.

4 Q. Is it the local school district, the
5 LEA? Is it the individual schools or individual
6 school administrator?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: It could be all of
9 those people.

10 BY ATTORNEY BELINFANTE:

11 Q. Okay. Does the state Department of
12 Education, to your knowledge, decide who sits in an
13 IEP team meeting?

14 A. No.

15 Q. Does the Department of Behavioral
16 Health and Developmental Disabilities, to your
17 understanding, decide who sits at an IEP team
18 meeting?

19 A. No. But, again, through their Apex
20 program they can strongly suggest that an Apex
21 provider be sitting at these IEP team meetings.

22 Q. And to your knowledge, does the
23 community of Community Health decide who sits in an
24 IEP team meeting?

25 A. No.

1 Q. Okay. And you said that Georgia
2 provides Apex services. Is that your understanding
3 that Georgia contracts with providers to provide
4 Apex services?

5 A. Can you ask that question again.

6 Q. Sure. When you say that Georgia
7 either DBH or GCH provides services, Apex services,
8 did you more specifically mean that Georgia
9 contracts with providers to provide Apex services?

10 A. That's correct.

11 Q. Okay. In other words, it's not a
12 Department of Community Health employee that goes
13 out and is providing Apex services; correct?

14 A. That's correct.

15 Q. Okay. Nor is it a Department of
16 Behavioral Health and Developmental Disabilities
17 employee that goes out and does it. The Department
18 of Behavioral Health is contracting with a private
19 provider; correct?

20 A. Contracting with CSB.

21 Q. Okay. Or is it your understanding
22 that the Apex program is limited to CSBs, or can
23 other providers agree to contract with DBHDD to
24 provide Apex services?

25 A. My understanding is it's limited to

1 CSBs.

2 Q. Okay. You can put the rule away for
3 a minute.

4 A. (Witness complies with request.)

5 Q. Do you know roughly how many CSBs
6 are in the State of Georgia?

7 A. Approximately 25.

8 Q. Okay. And do you know of any CSB
9 that applied to provide Apex services and was
10 denied?

11 A. I'm not sure.

12 Q. Do you know why any CSB would choose
13 not to contract with DBHDD to provide Apex
14 services?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Can you repeat the
17 question.

18 BY ATTORNEY BELINFANTE:

19 Q. Sure. Do you know why or have an
20 opinion as to why any CSB would choose not to
21 contract with DBHDD to provide Apex services?

22 A. No.

23 Q. Do you know if the Department of
24 Behavioral Health has prevented Apex services from
25 being provided in any school in Georgia?

1 ATTORNEY BELINFANTE: Object to
2 form.

3 THE WITNESS: No.

4 BY ATTORNEY BELINFANTE:

5 Q. Do you have an opinion as to whether
6 the Department of Behavioral Health has prevented
7 Apex services from being provided in any school in
8 Georgia?

9 ATTORNEY HOLKINS: Same objection.

10 THE WITNESS: Can you repeat that
11 question.

12 BY ATTORNEY BELINFANTE:

13 Q. Do you have an opinion -- I asked
14 you before if you knew if it occurred. My next
15 question is do you have an opinion as to whether
16 the Department of Behavioral Health and
17 Developmental Disabilities has prevented any CSB or
18 other provider from providing Apex services to the
19 schools in Georgia?

20 ATTORNEY HOLKINS: Same objection.

21 THE WITNESS: I'm still not
22 understanding. The follow-up question,
23 I'm not understanding.

24 BY ATTORNEY BELINFANTE:

25 Q. Okay. The question is have you

1 formed an opinion as to whether DBHDD has actively
2 prevented any provider from providing Apex
3 services?

4 ATTORNEY HOLKINS: Same objection.

5 THE WITNESS: No.

6 BY ATTORNEY BELINFANTE:

7 Q. Okay. All right. Can we get 16.
8 Now comes the fun part. I promised you we would
9 look at the provider manuals. It makes up two
10 boxes that we brought from Atlanta.

11 A. I hope you shipped them or have a
12 good airline.

13 Q. I don't know how you want to mark
14 them. It says Exhibit 16 in here. That's
15 incorrect. I'll put the sticker on this as
16 Exhibit 11. The good news is, Doctor, we're
17 obviously not going to look at a lot of pages in
18 here. For completion, it's just one of the things
19 we had to do.

20 (Exhibit 11 was marked for
21 identification.)

22 A. No worries, thank you.

23 ATTORNEY HOLKINS: And I need one
24 myself.

25 THE WITNESS: Are these souvenir

1 copies?

2 BY ATTORNEY BELINFANTE:

3 Q. Well, the court reporter gets to
4 especially keep it. You never know because
5 sometimes you just print out what you need because
6 people get frustrated because you didn't print out
7 the whole thing.

8 Let's turn to page 56.

9 A. All right.

10 (Discussion held off the
11 record.)

12 ATTORNEY HOLKINS: Before we start
13 with the questions, just so the record is
14 clear, can we just clarify which version
15 of the manual we're talking about here.

16 ATTORNEY BELINFANTE: This is
17 fiscal year 23, quarter 1. I believe it
18 is the version that is cited in
19 Dr. Putnam's report at least at footnotes
20 48 and 49.

21 ATTORNEY HOLKINS: Great, thank
22 you.

23 ATTORNEY COHEN: Which quarter?

24 ATTORNEY BELINFANTE: It's
25 January, quarter 1, yeah, which I took to

1 be January 1, 2023.

2 THE WITNESS: Are you sure it's
3 the right version?

4 ATTORNEY HOLKINS: Actually the
5 one cited on pages, it should be 48 and
6 49, January 1, 2023. This looks like
7 it's quarter 1.

8 ATTORNEY BELINFANTE: Well, all
9 right. I'll ask the questions on this
10 and you-all can figure out. It may be
11 the same on this part. I think it is.

12 BY ATTORNEY BELINFANTE:

13 Q. Looking at page -- let's go to
14 page 57, Dr. Putnam. I think I originally told you
15 56, but we'll go to 57. Do you see the column
16 "Required Components"?

17 A. Yes. And do you have objections if
18 I look at this document?

19 Q. Well, unfortunately we're running a
20 bit short on time and it's a large document. It
21 looks like Apex is covered on 57 to 58.

22 A. Okay. Even if I just looked at the
23 Apex information, is that what we'll be referring
24 to?

25 Q. Because I've only got a question

1 right now based on one sentence.

2 A. Okay. No worries, okay. Give me a
3 couple minutes.

4 Q. Sure.

5 (Discussion held off the
6 record.)

7 Q. Doctor, if you can turn to page 57
8 of the Exhibit 11.

9 A. Yeah.

10 Q. Under Required Components, Number 1
11 says, "The Apex program may be implemented in
12 designated public" -- excuse me. "The Apex program
13 may only be implemented in designated public school
14 settings."

15 Do you know what a designated public school
16 setting is for purposes of the Apex program?

17 A. No, I don't.

18 Q. It also says on page 56 under
19 Admission Criteria --

20 ATTORNEY COHEN: That's the prior
21 page; right?

22 ATTORNEY BELINFANTE: Yes, prior
23 page.

24 THE WITNESS: Yes.

25

1 BY ATTORNEY BELINFANTE:

2 Q. Number 2 under Admission Criteria,
3 that's the bottom section, "Youth must meet core
4 customer criteria for child and adolescent services
5 in DBHDD's provider manual for community-based
6 Behavioral Health providers, Part 1, Section 1."

7 Do you see that?

8 A. Yes.

9 Q. When forming your opinions, did you
10 determine what a core customer criteria is?

11 A. Well, can we take a look at Part 1,
12 Section 1?

13 Q. So we can, but my question is did
14 you look at it when forming your opinion in the
15 report?

16 A. Yes.

17 Q. Okay. That's all I need to know.

18 A. Okay.

19 Q. What is your understanding about
20 what a local school district needs to do, if
21 anything, to bring Apex services to its students?

22 A. One, they have to express interest
23 that they are interested. And if we look at --
24 give me another minute because it talks about in
25 terms of what the expectations are for the schools.

1 If not, we may need to look at the Apex contract,
2 if you have that available.

3 Q. Let me show you instead what we'll
4 mark as Exhibit 12, I think, which was previously
5 used by the United States in the deposition
6 Exhibit 978.

7 A. Okay.

8 (Exhibit 12 was marked for
9 identification.)

10 A. So we may not even have to look at
11 it. If you look at on page 57 and you look at
12 number 7.

13 ATTORNEY HOLKINS: Hold up, Bob.
14 Page 57?

15 THE WITNESS: Page 57, Item 7.

16 ATTORNEY BEDARD: For the record,
17 we're talking about Exhibit 11.

18 ATTORNEY HOLKINS: Exhibit 11,
19 yes.

20 THE WITNESS: It says here,
21 "Providers must obtain and maintain
22 commitment by the school leadership to
23 support school-based behavioral health
24 services, e.g., a designated space for
25 treatment and confidential file storage,

1 a communication plan for parents and
2 teachers to announce and coordinate the
3 implementation of services. Evidence
4 that the student support professionals
5 support the new service and collaborate
6 with the mental health professionals
7 assigned to their school."

8 And then "Providers must
9 coordinate any needed treatment with the
10 student, their family, teacher, and other
11 resources as indicated, probation
12 officer, student support teams, response
13 intervention teams, natural supports,
14 physicians, school, student support
15 professionals including professional
16 school counselors, school psychologists,
17 school social workers, school nurses, or
18 local IEP teams."

19 BY ATTORNEY BELINFANTE:

20 Q. So based on that, is it your
21 understanding that in order for Apex to go into a
22 local school, first providers have to agree to
23 contract with the Department of Behavioral Health,
24 then the providers need a commitment by the local
25 school leadership to support the application?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: And also I

3 understand there's some criterias in

4 terms of which schools are selected.

5 BY ATTORNEY BELINFANTE:

6 Q. Do you know the basis of that
7 criteria, where I'd find it?

8 A. It's in one of the documents, but I
9 don't remember off the top of my head.

10 Q. Okay. But it would be true, at
11 least, that in order for Apex to get into a school,
12 a provider has to want to contract and meet those
13 provider qualifications?

14 A. Right.

15 Q. Agree to contract and then get the
16 support of the local school; correct?

17 ATTORNEY HOLKINS: Object to form.

18 (Discussion held off the
19 record.)

20 BY ATTORNEY BELINFANTE:

21 Q. Okay.

22 ATTORNEY HOLKINS: Are we setting
23 aside Exhibit 12 as well?

24 ATTORNEY BELINFANTE: Yes, I'm
25 just renumbering Exhibit 12 because I

1 didn't ask any questions on it, so let's
2 just take it out. We'll go from there.

3 ATTORNEY COHEN: Exhibit 12 is
4 former 978?

5 ATTORNEY BELINFANTE: Yes, being
6 withdrawn.

7 (Exhibit 12 is withdrawn.)

8 BY ATTORNEY BELINFANTE:

9 Q. When forming your opinions about the
10 Apex program in Georgia, did you make any
11 presumptions about school system eligibility, or
12 did you base it on your understanding from the
13 provider manual and other resources cited in your
14 report?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Can you repeat that
17 question again, I'm sorry.

18 BY ATTORNEY BELINFANTE:

19 Q. Sure. When you were forming your
20 opinions about the availability of the Apex program
21 in Georgia and school eligibility to participate in
22 the Apex program, did you make any presumptions or
23 did you base your opinions solely on the sources
24 cited in your report?

25 ATTORNEY HOLKINS: Same objection.

1 THE WITNESS: There's two other
2 things I used. One was I understood
3 there was some criteria used in terms of
4 selection of schools before they were
5 asked to participate. I also during my
6 25 school visits asked about that in
7 terms of -- and those schools that were
8 aware of Apex, they basically said we
9 would love it or we would love more of
10 it.

11 BY ATTORNEY BELINFANTE:

12 Q. Okay. And for those schools who say
13 we would love it and didn't have it, is it possible
14 that the reason they didn't have it is that they
15 were not providers dollars area either willing
16 and/or able to contract with DBHDD to provide
17 Apex-related services?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: I wouldn't know.

20 BY ATTORNEY BELINFANTE:

21 Q. Okay. But if -- presume for a
22 moment that there were not providers of sufficient
23 quantity in the area to provide Apex, you could end
24 up with a situation where a school system wanted
25 Apex services but could not provide them; is that

1 correct?

2 ATTORNEY HOLKINS: Object to form.

3 THE WITNESS: Can you repeat that
4 question again, because it's a little bit
5 confusing.

6 BY ATTORNEY BELINFANTE:

7 Q. You would agree with me that it
8 takes two to get an Apex program. You need willing
9 providers and the school district; correct?

10 A. Correct.

11 Q. So you could be describing a
12 situation where you had a school district that
13 wanted Apex services, but they were not willing or
14 qualified providers to do, though? Isn't that
15 possible?

16 A. That's possible.

17 Q. Okay. To your knowledge, did the
18 state Department of Behavioral Health and
19 Developmental Disabilities impose barriers on
20 providers from being Apex -- behavioral health
21 service providers from being Apex providers?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: Well, from my
24 perspective they provided limited funds.

25

1 BY ATTORNEY BELINFANTE:

2 Q. Did you have any conversations with
3 Apex -- let me ask this: Did you have any
4 conversations with behavioral health service
5 providers in Georgia who said that but for funding
6 they would establish an Apex program?

7 ATTORNEY HOLKINS: Object to form.

8 THE WITNESS: You're going to have
9 to repeat that question again.

10 BY ATTORNEY BELINFANTE:

11 Q. Did you talk to any Behavioral
12 Health service providers in Georgia?

13 A. What do you mean, "as behavioral
14 health service providers"?

15 Q. People who would contract with DBHDD
16 to provide behavioral health services.

17 A. So are we talking about community
18 support?

19 Q. Yes.

20 A. Okay. We're defining what the
21 providers are. Support organizations, okay. Now
22 ask the question.

23 Q. Did you have any conversations with
24 community support Medicaid behavioral health
25 providers in Georgia?

1 A. I sat in on depositions.

2 Q. Okay.

3 ATTORNEY HOLKINS: Just to be
4 clear, are we talking about community
5 service boards?

6 THE WITNESS: CSBs, yes.

7 BY ATTORNEY BELINFANTE:

8 Q. So my question is did you talk to
9 any CSB that said if only the -- something along
10 the lines of if the state offered more funding for
11 Apex we would do it?

12 ATTORNEY COHEN: Other than what's
13 in the deposition you mean?

14 ATTORNEY BELINFANTE: Other than
15 what's in the deposition if it's in the
16 deposition.

17 THE WITNESS: You know, I only sat
18 in a deposition or read depositions. But
19 my understanding was that people felt if
20 they have more resources they could
21 provide more services.

22 BY ATTORNEY BELINFANTE:

23 Q. And that was based on the
24 depositions?

25 A. That's correct.

1 Q. Okay. Have you worked with Medicaid
2 providers across the country?

3 A. What do you mean by "Medicaid
4 providers across the country"?

5 Q. Have you ever worked with providers
6 of Medicaid in states other than Georgia or talked
7 to Medicaid providers in states other than Georgia
8 about delivering the types of services that Apex
9 provides?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: I don't remember.

12 BY ATTORNEY BELINFANTE:

13 Q. Okay. You had mentioned earlier
14 contracts with DBHDD. I'm going to show you what
15 we'll mark as the new Exhibit 12. New and
16 improved, which I'll represent to you is
17 footnote 52 in your report.

18 (Exhibit 12 was marked for
19 identification.)

20 ATTORNEY COHEN: Put this away
21 right now.

22 ATTORNEY HOLKINS: This was
23 footnote 52?

24 ATTORNEY BELINFANTE: Yes.

25 ATTORNEY HOLKINS: Thank you.

1 BY ATTORNEY BELINFANTE:

2 Q. And Doctor, I realize this is a
3 large document. Out of the interest of time, I'm
4 going to ask you to look at page 22, which is an
5 appendix to the larger contract.

6 A. Can I take a couple minutes to
7 review this?

8 Q. If you could briefly.

9 A. Okay.

10 Q. But, again, I've got one question,
11 and it's going to be based on --

12 A. Well, I just want to put that all in
13 context, that's all.

14 Q. Sure. 22 and 23.

15 (Pause)

16 Q. Actually my question will be on 24.

17 A. Page 24?

18 Q. Yes.

19 ATTORNEY POLANSKY: Which footnote
20 did you say?

21 ATTORNEY BELINFANTE: 52.

22 ATTORNEY POLANSKY: Sorry.

23 THE WITNESS: Reading as fast as I
24 can, I'm sorry.

25

1 BY ATTORNEY BELINFANTE:

2 Q. That's all right.

3 (Discussion held off the
4 record.)

5 (Ms. Cohen leaves
6 deposition.)

7 BY ATTORNEY BELINFANTE:

8 Q. Dr. Putnam, if you don't mind me
9 asking, what page are you on?

10 A. 17.

11 Q. Let me do this. I may not have to
12 ask specific questions about it, but I am concerned
13 about time. So let me ask this question: Is it
14 your understanding that for contractors providing
15 Apex services, Georgia State University developed
16 surveys that providers were required to complete
17 those surveys within stated deadlines?

18 A. Where is that?

19 Q. Page 24 under "Deliverables."

20 A. I'm almost there, sorry. Got one
21 more to go, sorry.

22 Q. All right.

23 (Pause)

24 A. Okay, now where are you? 24?

25 Q. Page 24 under "Deliverables,"

1 number 1.

2 A. Yes.

3 Q. Were you aware that the contract
4 required providers to complete all surveys
5 developed, that were created by the Georgia state
6 University Center Of excellence for Children's
7 Behavioral Health?

8 A. Yes.

9 Q. Did you review any of those surveys?

10 A. I don't think those surveys were
11 made available to me.

12 Q. Okay. Did you request them?

13 A. I requested any information that is
14 relative to Apex from the Department of Justice in
15 terms of discovery.

16 Q. All right. Putting that document
17 aside for a moment.

18 A. And I just want to go back to, if
19 you say 23, 3, to go back to a further question,
20 "Targeted schools will be selected based on factors
21 including, but not limited, to Title 1 status
22 attendance data, CCRPI data, school of PBS status
23 and school climate star rating."

24 Now, I don't know what those surveys are.
25 Do you have a copy of what those surveys are?

1 Q. I do not have one with me.

2 A. Because I may have seen those
3 surveys. I don't know exactly what they refer to
4 in those surveys.

5 Q. Okay. Understood.

6 A. So I don't feel like I can answer
7 that question since I don't know what those surveys
8 might be, and I may have reviewed them and not
9 thought they were a survey.

10 Q. If you reviewed them, would they be
11 cited in your report?

12 A. No. Because I didn't cite
13 everything that basically might be available.

14 Q. Let me ask this. Looking at page 25
15 of your report.

16 A. Okay. Are we putting this away?

17 Q. Yes.

18 A. Thank you very much.

19 Q. Thank you. It looks like the second
20 full sentence on the page dollars first paragraph
21 says, "In addition, the state does not collect any
22 individualized data about the students attending
23 Apex-participating schools. If it collected such
24 data, the state could use it to assess whether Apex
25 services the students receive were effective and to

1 identify other interventions that might help
2 students return to or remain in general education
3 classrooms."

4 Do you see that?

5 A. Yes.

6 Q. My question is if the state doesn't
7 collect the data, how can you decide or opine that
8 Apex is an effective service?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: Not sure I

11 understand the question.

12 BY ATTORNEY BELINFANTE:

13 Q. You didn't see any individualized
14 data about Apex-participating schools; right?

15 A. That's correct.

16 Q. Okay. And is it your opinion that
17 if that data were collected, the state could use it
18 to assess whether the Apex services the students
19 received were effective and to identify other
20 interventions that might help students return to or
21 remain in general education classrooms; correct?

22 A. Yes.

23 Q. So if you didn't see that data, do
24 you have an opinion as to whether Apex services the
25 students received are effective?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: Well, let's just
3 take a look at this Apex contract. In
4 terms of what they're asking the schools
5 to collect, right. I have to go back
6 through it and look at it in terms of
7 what they're -- so I don't think this
8 is -- when is this dated, this one?

9 BY ATTORNEY BELINFANTE:

10 Q. It looks like fiscal year 2021.

11 A. Yes. So I wish you would -- had
12 brought out a previous Apex contract, because the
13 early Apex contract calls for office discipline
14 referral data, which was not collected.

15 And if you look at in terms of what the
16 goals and objectives are -- hang on just one
17 second, I'm going to have to find it -- if you look
18 on page 23, you have the hoped-for result will
19 include a reduction of children and youth in
20 Georgia with unmet mental health needs." Fewer
21 discipline referrals, right, which is what the
22 original contracts basically ask for and increased
23 academics performance in terms of that.

24 So the reality is Georgia didn't collect
25 what they suggested they wanted to collect in the

1 original contracts to figure out whether the Apex
2 program was actually effective or not.

3 Q. Doctor, my question is it's your
4 opinion in your report on page 25 that because
5 Georgia did not collect individualized data about
6 students attending Apex participating schools, that
7 Georgia could not determine or assess whether the
8 Apex services are effective.

9 So my question is, first, do you have an
10 opinion as to whether Apex services in Georgia are
11 an effective tool to reduce the amount of placement
12 in segregated educational environments?

13 A. Well, I think we need to read that
14 sentence the way it's accurately reported here. It
15 says, "In addition, the state does not collect any
16 individualized data about students attending Apex
17 schools"; right?

18 And what I said is if it collected such
19 data, the state could use it to assess whether Apex
20 services that students received were effective and
21 to identify other interventions that might help
22 students return to or remain in a general education
23 classroom."

24 Q. Try to answer the question I asked,
25 though. That specifically was do you find that

1 Apex services delivered in the State of Georgia are
2 effective at reducing segregation in education
3 settings?

4 A. So what I can look at is utilization
5 of Apex services in terms of the limited number of
6 schools, the limited number of kids, the limited
7 number of individual services being provided and
8 looking at that in terms of what at least my
9 expectations would be for students with serious
10 mental health needs. I don't think that, given all
11 those factors, that basically, you know if Apex was
12 really implemented the way it should be in terms of
13 form increased number of schools, increased number
14 of kids, increased number of services, you'd have a
15 fair evaluation of that.

16 Q. So, Doctor, your opinion then is
17 that we cannot fairly evaluate Apex today in
18 Georgia?

19 ATTORNEY HOLKINS: Object to form.

20 THE WITNESS: I think given
21 standards in terms of the number of
22 schools, the number of kids who got
23 services, the amount of services they
24 got, basically what you would look at in
25 terms of standards of care, I don't think

1 the way it's implemented at this point in
2 time, really you've got to see the
3 outcomes.

4 BY ATTORNEY BELINFANTE:

5 Q. So is your opinion -- and I just
6 need a concise as you can make it -- is your
7 opinion we don't know if Apex is effective? Is
8 your opinion that Apex is effective, or is your
9 opinion that Apex is not effective in reducing
10 placement in segregated settings for students in
11 Georgia schools?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: Well, again, the
14 original Apex contracts --

15 BY ATTORNEY BELINFANTE:

16 Q. Which is not cited in footnote 52.

17 A. But the original Apex contract
18 looked at schools who participated to indicate
19 office discipline referral data.

20 Q. I understand that. We've been
21 through that. I'm really just trying to ask do you
22 have an opinion, is it your opinion that you can
23 tell whether Georgia Apex services are effective at
24 reducing placement in segregated schools? Yes or
25 no?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: Well, the way it's
3 implemented at this point in time, I
4 don't see where we reduce office
5 discipline referrals, and that's the
6 leading indicator of students going into
7 more restrictive placement.

8 BY ATTORNEY BELINFANTE:

9 Q. Okay. So your opinion is that Apex
10 in Georgia is currently not effective at reducing
11 placement in segregated school settings?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: Well, I can't --
14 based on what I can see, you know,
15 obviously I can't, you know -- there's
16 not enough information to make that
17 decision. However, looking at in terms
18 of what's available, you know, it doesn't
19 seem to me that as the way it's currently
20 constituted that it will make a
21 difference.

22 BY ATTORNEY BELINFANTE:

23 Q. Can you -- well, no. I'm not going
24 to ask that.

25 ATTORNEY HOLKINS: You're in the

1 middle of a line, but whenever you need a
2 break, I can use the restroom.

3 ATTORNEY BELINFANTE: It may be
4 now. Just a few more questions, if you
5 don't mind.

6 ATTORNEY HOLKINS: That's fine.

7 BY ATTORNEY BELINFANTE:

8 Q. Is it your understanding that Apex
9 services, would they fall in line with PBS Tier 2
10 or PBIS Tier 3? Do you have an opinion on that?

11 A. I would say it's both.

12 Q. Okay. And it is your opinion on
13 page 25 -- and I'm looking for the precise
14 location -- that PBIS in Georgia has stalled? I
15 think that was the word you used.

16 A. Yes.

17 Q. Okay. And is that -- that's based
18 on PBIS Tier 2 implementation, Tier 3
19 implementation, or Tier 1 implementation?

20 A. Well, it's -- one is, if we look at
21 my report, right, and let me see if I can find this
22 section.

23 Q. It's on the top of page 27 is where
24 the stalled statement comes in, despite --

25 A. Okay. Let me just, I think --

1 sorry. I'm just looking for my exact number.
2 Well, one is I believe there were only a couple
3 hundred schools that had -- that had participating
4 training after we got to -- I'm pretty sure it's in
5 my report, but I don't see it at this point in
6 time.

7 After, you know, it was about 1200 schools
8 and now in February '23 there's 1400 schools. And
9 that's people that schools had participated in
10 Tier 1 training. That doesn't mean that they're
11 doing it with fidelity. That there's only 400
12 schools that are implementing Tier 2.

13 The state had indicated that they were
14 going to roll out Tier 3 in school year 2021, and
15 they still haven't rolled out Tier 3.

16 Q. Do you know if COVID had an impact
17 on the rollout in school year 2021?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: It could, yeah.

20 ATTORNEY BELINFANTE: We can take
21 a break. Thank you very much.

22 THE VIDEOGRAPHER: We are now
23 going off the record at 16:37.

24 (Recess taken from 4:37 p.m.
25 to 4:49 p.m.)

1 THE VIDEOGRAPHER: We are back on
2 the record at 16:49.

3 BY ATTORNEY BELINFANTE:

4 Q. Dr. Putnam, when we just left, you
5 were talking about your opinion that Georgia has,
6 quote, stalled in its implementation of PBIS. Is
7 it your understanding that approximately 50 percent
8 of Georgia's schools have implemented at least
9 Tier 1?

10 A. Can you repeat that question.

11 Q. Sure. Is it your understanding that
12 approximately 50 percent of Georgia's state schools
13 have implemented PBIS at least Tier 1?

14 A. No.

15 Q. Let me show you what we'll mark as
16 Exhibit 13, which was previously introduced as the
17 United States Exhibit 972. It was an email cited
18 in your report. I'll find it.

19 A. Thank you.

20 (Exhibit 13 was marked for
21 identification.)

22 ATTORNEY HOLKINS: This was cited
23 in Dr. Putnam's report?

24 THE WITNESS: Yes.

25 ATTORNEY HOLKINS: Are you able to

1 find it? It's in the Justin Hill
2 deposition.

3 ATTORNEY BELINFANTE: It looks
4 like, based on the Bates Number 3425886,
5 it's cited as footnote 76.

6 ATTORNEY HOLKINS: It's on
7 page 28.

8 THE WITNESS: Twenty-eight, okay.
9 Thank you very much. Just reading the
10 document.

11 ATTORNEY POLANSKY: What exhibit
12 number is it?

13 ATTORNEY BELINFANTE: 13.

14 I think it's because we had two
15 12s.

16 THE WITNESS: Okay.

17 BY ATTORNEY BELINFANTE:

18 Q. Doctor, can you see there on the
19 first page of this document the -- I don't know why
20 these paragraphs, I guess because they were
21 highlighted, came out looking like scotch plaid or
22 something, but the second paragraph says, "The DOE
23 feels that in order to extend support in the areas
24 of classroom Tiers 2 and 3 to our current
25 district/schools, 50 percent of the state and new

1 districts, we need to have adequate DOE technical
2 assistance personnel (TAs, a/k/a state coaches or
3 trainers) to coach the RESA."

4 Do you see that?

5 A. Yes.

6 Q. Do you understand that to mean that
7 50 percent of the state is already implementing
8 PBIS?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: Well, this doesn't
11 say anything about -- this basically
12 says -- doesn't say they are implementing
13 with fidelity.

14 BY ATTORNEY BELINFANTE:

15 Q. Okay. Would you agree though, that
16 if the state schools are at 50 percent with
17 fidelity, that exceeds the national average of PBIS
18 in schools?

19 ATTORNEY HOLKINS: Object to form.

20 THE WITNESS: Let me -- go back
21 and ask that question again.

22 BY ATTORNEY BELINFANTE:

23 Q. Sure. If the state is implementing
24 PBIS or if schools in the state are implementing
25 PBIS with fidelity and it's 50 percent of those

1 schools, wouldn't that exceed the national average?

2 ATTORNEY HOLKINS: Object to form.

3 THE WITNESS: And when was this
4 written?

5 BY ATTORNEY BELINFANTE:

6 Q. 2017.

7 A. This is 2017. The issue is this is
8 why I'm saying it's stalled; right? Because that
9 particular point in time there are a number of
10 schools trained. There's not been that many
11 additional schools trained. We don't know about
12 fidelity in terms of that. So that's -- this is
13 2017. This is not 2023.

14 Q. And your report doesn't indicate how
15 many schools in Georgia have implemented PBIS with
16 fidelity or without, does it? It doesn't quantify
17 it?

18 A. Because we never got that
19 information from the GA DOE.

20 Q. Did you request that of the Georgia
21 Department of Education or did you request that of
22 the Department of Justice?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: I requested the
25 Department of Justice to request of

1 Georgia any information that they had
2 relative to PBS.

3 BY ATTORNEY BELINFANTE:

4 Q. Okay. Let's look at page 27 of your
5 report. It says in the last full sentence,
6 "However, as of March 2023 the Georgia Department
7 of Education had never provided training to support
8 Georgia's schools in their adoption of Tier 3
9 despite GA DOE's formal support of PBIS starting 15
10 years ago and its determination in 2015 that it
11 would roll out Tier 3 training during school year
12 2021."

13 Do you see that?

14 A. No, I'm sorry. Where are you here,
15 I'm sorry.

16 Q. It's the last sentence on the page
17 of page 27, starting with "However."

18 A. It's the last sentence, okay, I'm
19 sorry. I was in the wrong paragraph.

20 Q. That's okay.

21 A. Is what you're asking me is however,
22 as of March 2023 Georgia provided support in the
23 adoption of Tier 3 despite GaDOE's support of PBS
24 starting three years ago?

25 Q. Right. My question is, are you

1 aware of any school districts in Georgia, LEAs,
2 asking for Tier 3 training and not receiving it?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: No.

5 BY ATTORNEY BELINFANTE:

6 Q. Isn't it true that nationally it's
7 very difficult for school districts to implement
8 Tier 3 with fidelity in their school system?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: I don't know what
11 you mean by "difficult."

12 BY ATTORNEY BELINFANTE:

13 Q. In your experience, would you say
14 the majority of school districts in the United
15 States have implemented Tier 3 PBIS with fidelity?

16 A. No.

17 Q. They have?

18 A. Repeat the question.

19 Q. Sure. Have the majority of school
20 districts in the United States based on your
21 experience implemented Tier 3 PBIS with fidelity?

22 A. No.

23 Q. And part of that is it's difficult
24 to implement PBIS Tier 3, is it not?

25 ATTORNEY HOLKINS: Object to form.

1 THE WITNESS: And I also think
2 part of it is not having the state take
3 the leadership in terms of providing
4 training to their schools around Tier 3
5 implementation.

6 BY ATTORNEY BELINFANTE:

7 Q. To your knowledge, does the state do
8 anything -- the State of Georgia -- whether DOE,
9 DBHDD or DCH, to prevent local school districts
10 from obtaining training in Tier 3 PBIS?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Well, if it's not
13 accessible, it's hard for them to get
14 that.

15 BY ATTORNEY BELINFANTE:

16 Q. Right. But, for example, the May
17 Institute provides training on PBIS Tier 3;
18 correct?

19 A. Correct.

20 Q. And, to your knowledge, has the
21 state prevented any local school districts from
22 obtaining training from any source on PBIS Tier 3?

23 A. Can you repeat that question again.

24 Q. Sure. Has the state of Georgia,
25 whether DOE, DCH, or DBHDD, to your knowledge, done

1 anything to prevent local school districts, LEAs,
2 from obtaining training in Tier 3 PBIS?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: If it's not
5 accessible to the state, it's hard for
6 them to say, you know, how it turned out;
7 right?

8 BY ATTORNEY BELINFANTE:

9 Q. But they could retain May Institute,
10 for example, and get the training, correct, the
11 local school districts?

12 A. They could.

13 Q. Okay. My question is to your
14 knowledge, has Georgia said you can only do it
15 through us, for example? That would be a barrier,
16 the state saying, you know, you can't get PBIS
17 Tier 3 training.

18 To your knowledge, has the state done
19 anything to prevent an LEA from obtaining Tier 3
20 PBIS training?

21 A. Well, I think in terms of providing
22 the resources to be able to do that, I don't see
23 where Georgia has provided the resources to do
24 that.

25 Q. Okay. But it's not enacted a rule

1 or a statute or a policy that says training only
2 has to come from the state; correct?

3 A. Correct.

4 Q. All right. And nothing in Georgia,
5 to your knowledge, says local school districts,
6 LEAs, are prevented from spending their own money
7 on Tier 3 PBIS training; is that correct?

8 A. That's correct.

9 Q. Okay. Let me ask you to look back
10 at Exhibit 4, which is the Bierman article from
11 2021.

12 A. Sure, okay. And we never read this,
13 so, if you have a question, I want to make sure you
14 give it to me.

15 Q. No, we read the Bierman article.

16 A. I never read the whole thing.

17 Q. Okay.

18 A. I have no objection to you asking
19 questions. I just want to be able to read the
20 article.

21 Q. I'll tell you what. We'll save it
22 and then come back to it. I don't want to overstay
23 my welcome with our federal hosts.

24 A. Okay.

25 ATTORNEY HOLKINS: You're always

1 welcome.

2 ATTORNEY BELINFANTE: That's what
3 concerns me.

4 BY ATTORNEY BELINFANTE:

5 Q. All right. Did you observe schools
6 in Georgia that were attempting to implement PBIS
7 but not doing so with fidelity?

8 A. Yes.

9 Q. Which school?

10 A. I don't remember.

11 Q. Roughly what percentage of the
12 schools you saw that were implementing PBIS were
13 not doing so with fidelity?

14 A. I don't remember.

15 Q. Do you have any opinion as to why
16 they were not implementing PBIS with fidelity?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: I don't believe they
19 had the resources from the state to help
20 support them in terms of coaching and
21 training.

22 BY ATTORNEY BELINFANTE:

23 Q. Okay. Let me ask this: The schools
24 you looked at, were a majority them of implementing
25 PBIS Tier 1 with fidelity?

1 A. I don't remember.

2 Q. How about Tier 2?

3 ATTORNEY BELINFANTE: Object to
4 form.

5 THE WITNESS: I don't remember.

6 BY ATTORNEY BELINFANTE:

7 Q. Now, you said on page 29 of your
8 report, first line, "No school that I saw had a
9 fully functioning Tier 3 system."

10 Do you see that?

11 A. That's correct.

12 Q. Okay. Going back to your report at
13 page 17, you say that Tier 3 services would be
14 utilized typically by 3 to 5 percent of the
15 population.

16 ATTORNEY HOLKINS: We're still
17 getting to the page.

18 THE WITNESS: Where is that on the
19 page?

20 BY ATTORNEY BELINFANTE:

21 Q. The top of the page.

22 A. Okay.

23 ATTORNEY HOLKINS: What was the
24 line, I'm sorry?

25 Q. "Tier 3 offers the most meaningful

1 individualized intensive support services generally
2 to a very small set of students with the highest
3 needs, typically 3 to 5 percent of the population."

4 Do you see that?

5 A. Correct.

6 Q. Okay. So putting those two
7 together, it's no school had a fully functioning
8 Tier 3 system which would typically be needed only
9 by 3 to 5 percent of the student population.

10 Is that a fair way to look at those two
11 together?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: Can you repeat the
14 question.

15 BY ATTORNEY BELINFANTE:

16 Q. Sure. No school -- and I'm on
17 page 29 -- no school had a fully functioning Tier 3
18 system that would cover 3 to 5 percent of their
19 student population typically. Is that right?

20 A. Yes.

21 Q. Okay. And by "fully functioning,"
22 you mean to fidelity standards?

23 A. Well, that's where -- I mean, they
24 may have pieces of a Tier 3 system, but, you know,
25 to really have it in place to improve the

1 effectiveness and the efficiency that we would
2 expect that with fidelity.

3 Q. All right. Back on page 29.

4 A. Yes.

5 Q. First full paragraph. Second
6 sentence reads, "Yet, many of the schools I
7 observed failed to integrate school or community
8 clinical professionals into their PBIS team."

9 Do you see that?

10 A. No.

11 Q. 29, first full paragraph, the second
12 sentence.

13 A. You're on 29?

14 Q. Yes.

15 A. In the second paragraph, I'm sorry.

16 Q. First full paragraph?

17 A. It's getting late.

18 Q. Understood. We're all in the same
19 boat, I assure you.

20 A. So go back to --

21 Q. My question is, based on that second
22 sentence, you say "many of the schools."

23 Can you quantify that any more for us?

24 ATTORNEY HOLKINS: Object to form.

25 THE WITNESS: Let me read the

1 sentence again.

2 BY ATTORNEY BELINFANTE:

3 Q. Sure. I'll let you read it.

4 A. Okay.

5 (Pause)

6 A. I found very few of the schools that
7 basically had the school or community
8 professionals, and then I asked as part of my
9 interviews of the schools who served on their PBS
10 teams.

11 Q. To your knowledge, did the
12 department, Georgia Department of Community Health
13 prevent the schools from having clinical
14 professionals on their PBIS team?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: No.

17 BY ATTORNEY BELINFANTE:

18 Q. To your knowledge, did the
19 Department of Behavioral Health and Developmental
20 Disabilities prevent them from having clinical
21 professionals on their PBIS team?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: No.

24 BY ATTORNEY BELINFANTE:

25 Q. To your knowledge, did the

1 Department of Education provide training that
2 suggested that clinical professionals should be
3 part of the PBIS team?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: Well, my -- I didn't
6 see the training that the Department
7 of -- that GaDOE provided to their PBIS
8 teams. I know it's encouraged that
9 school or community clinical
10 professionals participate on their PBS
11 teams. Just in general in terms of PBS
12 across the country, but I've never -- I
13 never got -- again, I asked for any
14 information around PBS, and I never got a
15 document that indicated what their
16 training was.

17 BY ATTORNEY BELINFANTE:

18 Q. Did you review by chance the
19 strategic plan?

20 ATTORNEY HOLKINS: Object to form.

21 Q. Never mind. Exhibit, I think --
22 yes, okay. If I have a chance I'll come back to
23 it.

24 All right. Also on page 29, that same
25 paragraph that we were just talking about, which is

1 the first full or second, you know, just above the
2 Project Aware, the last sentence reads, "Instead, I
3 observed that even students who attended a school
4 with operational -- and operational PBIS program
5 were largely denied the benefits of community
6 supports integrated into the PBIS framework." (As
7 read)

8 Do you see that?

9 A. Yes.

10 Q. Okay. Now, I'm just trying to
11 understand exactly what was said there. Is the
12 criticism that students were denied access to
13 community supports or that those community supports
14 were not integrated or fractured from their PBIS
15 system?

16 ATTORNEY HOLKINS: Object to form.

17 THE WITNESS: That the community
18 supports were not integrated into the PBS
19 framework.

20 BY ATTORNEY BELINFANTE:

21 Q. So you're not saying at least
22 dollars sentence that students were denied
23 community support?

24 A. No. But to improve the
25 effectiveness and efficiency of both community

1 supports and PBS, it's strongly recommended that
2 they are integrated.

3 Q. Okay. Let's go to part 6, which
4 starts on page 32. My question is going to be on
5 the second sentence, which is, "For students with
6 behavior-related disabilities to avoid unnecessary
7 GNETS placements and remain in their home schools
8 they must be able to access appropriate therapeutic
9 services to help meet their needs in more
10 integrated educational settings."

11 Do you see that?

12 A. Yes.

13 Q. Can you identify for me what the
14 state Department of Community Health is doing to
15 prevent students from accessing therapeutic
16 services?

17 A. Can you repeat that question.

18 Q. Sure. Can you tell me what the
19 state Department of Community Health is doing to
20 prevent students from accessing appropriate
21 therapeutic services?

22 ATTORNEY HOLKINS: Object to form.

23 THE WITNESS: Would you mind, it's
24 getting late in the day. Would you mind
25 just repeating that question.

1 BY ATTORNEY BELINFANTE:

2 Q. That's fine. Can you tell me what,
3 if anything, the Georgia Department of Community
4 Health is doing to prevent students from accessing
5 appropriate therapeutic services?

6 ATTORNEY HOLKINS: Same objection.

7 THE WITNESS: No.

8 BY ATTORNEY BELINFANTE:

9 Q. Okay. Can you tell me what, if
10 anything, the Georgia Department of Behavioral
11 Health and Developmental Disabilities is doing to
12 prevent students from accessing appropriate
13 therapeutic services?

14 ATTORNEY HOLKINS: Object to form.

15 THE WITNESS: Well, they
16 administer the Apex program. And they
17 have limited the resources dollars Apex
18 program that could be used to access
19 appropriate therapeutic services.

20 BY ATTORNEY BELINFANTE:

21 Q. Right. And how did they limit the
22 resources? Is it purely financial?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: I think it's a
25 couple. It's financial. It's also, as

1 we've talked about previously, is not
2 encouraging, you know, the use of their
3 state dollars used for Medicaid services.
4 It's also part of their Apex contracts
5 where basically that they are not really
6 identifying those students with
7 behavioral-related disabilities.

8 So, for example, they are not
9 using office discipline referrals to
10 really identify those students who are
11 most at risk for unnecessary GNETS
12 placement. That information is available
13 in schools.

14 So they, one, have not encouraged
15 as part of their Apex contract, which
16 they originally did, and then basically
17 took it out. And actually one of the
18 depositions, I believe one of the CSBs
19 said that that information was very
20 valuable.

21 So when you look back at the
22 students related disability to avoid
23 unnecessary GNETS, one is really being
24 able to identify those students. Two is
25 really to target those students with

1 appropriate services so that they could
2 help meet their needs in more integrated
3 settings.

4 BY ATTORNEY BELINFANTE:

5 Q. Do you know of any student in
6 Georgia who was recommended for or referred to
7 therapeutic services that did not receive it?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: Can you repeat the
10 question.

11 BY ATTORNEY BELINFANTE:

12 Q. Sure. Do you know of any student in
13 Georgia who was recommended for or referred to
14 therapeutic services but did not receive them?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Well, when I talked
17 to school folks who had understood Apex
18 and basically participated in the Apex
19 program, they had students that they
20 wanted to refer to Apex. And there
21 wasn't folks able to take them.

22 BY ATTORNEY BELINFANTE:

23 Q. Is that because there were too many
24 people already there or because the services were
25 not provided, do you know?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: I'm not sure I
3 understand the question.

4 BY ATTORNEY BELINFANTE:

5 Q. Do you know why the Apex program
6 was, in your words, I believe, not able to take
7 them?

8 A. The schools felt that there weren't
9 sufficient clinicians to be able to provide them
10 due to resources.

11 Q. Okay. So the schools made the
12 determination that the Apex program was not able to
13 take them?

14 A. Well, the schools wanted to refer
15 them, and the Apex providers said they didn't have
16 sufficient resources to take them.

17 Q. And were those resources, did they
18 prevent the Apex program in these cases you're
19 talking about from offering the services, or were
20 they too full, so to speak?

21 ATTORNEY HOLKINS: Object to form.

22 Q. Not taking any more patients.

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: Can you repeat that
25 question.

1 BY ATTORNEY BELINFANTE:

2 Q. Why was the Apex program not taking
3 the students?

4 ATTORNEY HOLKINS: Object to form.

5 THE WITNESS: I don't know. I
6 didn't ask the Apex folks. I was just
7 really talking to the school folks.

8 BY ATTORNEY BELINFANTE:

9 Q. Was this more than one school that
10 you talked to that was relayed to you?

11 A. Yes.

12 Q. Do you know which school districts
13 that was?

14 A. No.

15 Q. Page 32, the next sentence that
16 we -- the one we were just talking about says,
17 "However, Georgia's own data show that those
18 services are not available or not provided in
19 sufficient quantities to children across the
20 state."

21 Do you see that?

22 A. Yes.

23 Q. Is that explained in more detail
24 later in your report? Is that where you get into
25 the figures and whatnot, or is that statement --

1 ATTORNEY HOLKINS: Object to form.

2 Q. I'll just leave it at that?

3 A. Repeat the question.

4 Q. Where would I look to understand the
5 basis of your conclusion that Georgia's own data
6 showed that those services are not available or not
7 provided in sufficient quantities to children
8 across the state?

9 A. It's in the rest of my -- the rest
10 of this section.

11 Q. Okay.

12 A. Yeah.

13 Q. This is just stating that statement
14 and then you're explaining it?

15 A. Yeah.

16 Q. Perfect. Now, some of the services
17 that would be therapeutic services, again, would be
18 provided outside of -- well, is it possible that a
19 school could provide therapeutic services and not
20 bill Medicaid for them?

21 ATTORNEY HOLKINS: Object to form.

22 Asked and answered.

23 THE WITNESS: Yes.

24 BY ATTORNEY BELINFANTE:

25 Q. And those would not be picked up in

1 your examination because your review was for
2 billing data for Medicaid services; is that
3 correct?

4 ATTORNEY HOLKINS: Object to form.

5 Asked and answered.

6 THE WITNESS: Yes.

7 BY ATTORNEY BELINFANTE:

8 Q. Page 34. The first full paragraph
9 says, "Even when Medicaid-enrolled children in
10 Georgia receive behavioral health services, those
11 services are often provided only in limited
12 quantities that, based on my training and
13 experience, are insufficient to meet the needs of
14 many students at serious risk of GNETS placement."

15 Do you see that?

16 A. Yes.

17 Q. Do you have an opinion as to why the
18 services were provided in what you describe as only
19 limited quantities?

20 A. No.

21 Q. Sorry, I'm actually skipping ahead.
22 So...

23 You may have answered this already, and so
24 I'm sure your counsel will remind me, but looking
25 at figures 2 and 4 on pages 39 and 40. That looks

1 at services as I understand it that were provided
2 in March of 2020.

3 Am I reading that correctly?

4 A. Which figure are you referring to?

5 Q. Figure 2 and figure 4 on page 39 and
6 40.

7 A. Yes, okay, yes. Figure 2 and
8 figure 4, yes.

9 Q. Okay. Let's look at page 41. First
10 paragraph that's up there, first complete sentence
11 says, "However, the state delivered Tier 2 and
12 Tier 3 services to only 13,778 total students that
13 school year."

14 Do you see that?

15 A. Yes.

16 Q. Okay. My question is when you say
17 "the state delivered," who do you mean
18 specifically, or what entity is the state?

19 A. Hang on. I have to kind of look
20 back.

21 Q. Sure.

22 A. So those are Apex -- students served
23 through Apex.

24 Q. Okay. So when you say "the state
25 delivered," what specifically did you mean?

1 A. That Apex providers who had a
2 contract with the state.

3 Q. Okay. Looking down at page -- at
4 the bottom of page 41, the first sentence in the
5 last paragraph says, "In addition, the state has
6 failed to utilize Apex-supervised some of its most
7 high intensity services."

8 Do you see that?

9 A. Yes.

10 Q. What did you mean by "the state"
11 dollars sentence?

12 A. If the state had contracts with Apex
13 providers?

14 Q. Yes.

15 A. To provide some of its most high
16 intensity services, and as well as had contracts
17 with the other CSBs to provide some of the most
18 high-intensity services.

19 Q. Okay. The -- I may have asked this
20 before. Do you know of any providers that
21 attempted to contract with DBHDD but -- to provide
22 Apex services, but were told by DBHDD that they
23 didn't qualify?

24 ATTORNEY HOLKINS: Object to form.

25 Asked and answered.

1 THE WITNESS: I don't remember.

2 ATTORNEY BELINFANTE: Okay. I
3 tell you what, Patrick. If it's okay
4 with you-all, we can take a 5- to 10
5 minute break, I can probably shorten a
6 lot of where I've got to go.

7 ATTORNEY HOLKINS: Great.

8 THE VIDEOGRAPHER: We are going
9 off the record at 17:22.

10 (Recess taken from 5:22 p.m.
11 to 5:34 p.m.)

12 THE VIDEOGRAPHER: We are back on
13 the record at 17:34.

14 BY ATTORNEY BELINFANTE:

15 Q. Dr. Putnam, are you ready?

16 A. All set.

17 Q. Let's go to page 52 of your report.

18 A. Okay.

19 Q. All right. Here is where you talk
20 about you pulled a few students at random in GNETS'
21 SY2020 and SY2022 who enrolled in Medicare
22 PeachCare. It looks like a total of seven
23 students.

24 Do you see that dollars first paragraph?

25 A. Correct.

1 Q. You discuss in the report two
2 students, one which we'll refer to or you refer to
3 as Tyler and another you refer to as Kevin.

4 Do you agree with that?

5 A. Yes.

6 Q. There's no discussion of the other
7 five students individually; correct?

8 A. Well, actually there is because it's
9 notable that out of the seven, at least two from
10 each cohort were enrolled in Medicaid PeachCare and
11 were admitted to GNETS but received no Medicaid
12 services in 2022. So there were two that basically
13 got nothing.

14 Q. Okay. So we're up to four out of
15 seven now; right?

16 A. Correct.

17 Q. Because Tyler and Kevin are not the
18 two you're referring to that received no services?

19 A. That's correct.

20 Q. Okay. What was the reason or the
21 basis that you used to choose seven files?

22 A. It was really to illustrate in terms
23 of a couple students in terms of what they
24 received.

25 Q. Okay. So to be clear, you're not

1 making an opinion or offering an opinion that that
2 seven is a statistically significant sample; is
3 that correct?

4 A. No.

5 Q. Okay. That just shortened a lot of
6 questions.

7 Let's talk about Tyler, if we can.

8 A. Yeah.

9 Q. Do you know what Tyler's diagnosis
10 was sitting here today?

11 ATTORNEY HOLKINS: Object to form.

12 Q. Do you know if Tyler was recommended
13 for any therapeutic Medicaid services prior to his
14 admission to GNETS?

15 A. No.

16 Q. Do you know if Tyler had incidents
17 involving violence at school?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: No.

20 BY ATTORNEY BELINFANTE:

21 Q. It says that even after -- and I'm
22 looking for it -- yeah, the top of page 53, even
23 after Tyler entered GNETS, Tyler did not receive
24 sufficient therapeutic Medicaid services to support
25 his transition back to a more integrated placement.

1 Do you see that?

2 A. Yes.

3 Q. To your knowledge, are therapeutic
4 services provided in a GNETS setting and not billed
5 to Medicaid?

6 ATTORNEY HOLKINS: Object to form.

7 THE WITNESS: It could be.

8 BY ATTORNEY BELINFANTE:

9 Q. All right. You would agree with me,
10 though, that Apex services are not provided in a
11 GNETS setting; correct?

12 ATTORNEY HOLKINS: Object to form.

13 THE WITNESS: They could be.

14 BY ATTORNEY BELINFANTE:

15 Q. All right. So do you know if Apex
16 services are provided in a GNETS setting? And by
17 that I mean literally through an Apex program as
18 opposed to intensive care that you might get
19 through Apex and then you can get it without Apex.

20 ATTORNEY HOLKINS: Object to form.

21 Q. Let me try to phrase it this way.
22 To your knowledge, did any Apex providers provide
23 services in GNETS' program?

24 A. Well, in this particular case I
25 don't think we were just looking at Apex. We were

1 looking at Medicaid services.

2 Q. Right. Okay. Let's talk about --
3 oh, yeah. The last sentence dollars same first
4 paragraph on page 53 said, "Had Tyler received
5 therapeutic interventions through Medicaid prior to
6 his referral to GNETS, he might have spent his
7 seventh and eighth grade years in a general
8 education environment."

9 Do you see that?

10 A. Yes.

11 Q. When you say, "Might have spent his
12 seventh and eighth grade years," is there a way to
13 quantify that any more?

14 A. Well, I am -- I'm really, if you
15 look at what Tyler got, you know, he -- as I report
16 here, he received nothing, therapeutic Medicaid
17 until a full year after admission. When he did
18 receive some therapeutic Medicaid services, he did
19 receive small amounts, and during school year 2021
20 he received 23 units of individual counseling, and
21 he did not receive any community support.

22 And to '22, and there's no indication in
23 the record that Tyler received IC3 and that during
24 school year 2021 and school year 2022 he received
25 19 units of individual counseling. An average of

1 less than one per month.

2 Now, this is a student, because he's in
3 GNETS has service behavioral issues as defined by
4 the GNETS rule, and, you know, when you look at in
5 terms of two years and he received 19 units of
6 individual counseling, less than an average of one
7 per month, that's really not a whole lot.

8 And, you know, he received no community
9 support until 2022. Never received any IC3. So
10 when you begin to look at somebody with, you know,
11 serious behavioral disabilities, the reality is
12 he's received a very limited amount.

13 Q. But we don't know, we have to make
14 some level of presumption that had he received the
15 services when he was younger he could have stayed
16 in a general educational environment? Isn't that
17 right?

18 ATTORNEY HOLKINS: Object to form.

19 Q. We have to still make some
20 presumption that had he received the services when
21 he was younger he could have stayed in a general
22 education environment; is that correct?

23 ATTORNEY HOLKINS: Same objection.

24 THE WITNESS: Yes, it's possible.

25

1 BY ATTORNEY BELINFANTE:

2 Q. In other words, it's not like you
3 get a bacterial infection, you get an antibiotic,
4 it's going to kill the bacteria. Here we have to
5 presume that the services would work, and that is
6 how you determine that he might have spent
7 seventh or eighth grade. It's a presumption;
8 correct?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: I'm not sure I
11 understand the question.

12 BY ATTORNEY BELINFANTE:

13 Q. Okay. Might have spent his
14 seventh and eighth grade years in the general
15 education environment, that's a presumption you're
16 making. Isn't that right?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: Presumption that if
19 he received appropriate Medicaid
20 services?

21 BY ATTORNEY BELINFANTE:

22 Q. Yes.

23 A. Yes. And what were our analysis --
24 or my analysis was that he didn't. And so I think
25 certainly that could be a contributing factor to

1 him spending his two years in a restrictive GNETS
2 placement that both in terms of prevention as well
3 as intervention, once he was in GNETS.

4 Q. So it's a contributing factor?

5 ATTORNEY HOLKINS: Object to form.

6 THE WITNESS: Lack of services,
7 yes.

8 BY ATTORNEY BELINFANTE:

9 Q. Okay. Is it your experience that
10 children also go through a great deal or
11 significant amount of growth and development in
12 their seventh and eighth grade years?

13 A. I'm not sure what you mean by
14 "significant development."

15 Q. Is it your experience that students
16 mature a good deal during their seventh and
17 eighth grade years?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: I think the whole
20 developmental trajectory is important.

21 BY ATTORNEY BELINFANTE:

22 Q. I'm not going to get into that with
23 you.

24 A. I have both personal experience
25 having two kids.

1 Q. Okay. Let's talk about Kevin then,
2 who is the next person discussed on page 53.

3 A. Yes.

4 Q. Same thought here, that you have to
5 make a presumption. We don't know that if Kevin
6 received Medicaid-funded services prior to entering
7 GNETS he may not have had to enter GNETS. Isn't
8 that right?

9 ATTORNEY HOLKINS: Object to form.

10 THE WITNESS: What I think
11 were- what I'm saying is it reduces the
12 probability if he got Medicaid services,
13 if he had access to those Medicaid
14 services and if he had the appropriate
15 intensity that from my experience in the
16 research, that it reduces the
17 probability.

18 BY ATTORNEY BELINFANTE:

19 Q. Okay. Do you recall where Kevin is
20 from in the State of Georgia?

21 A. No.

22 Q. Do you recall where Tyler is from in
23 the State of Georgia?

24 A. No.

25 Q. Okay. Do you recall what Kevin --

1 if Kevin had a more specific diagnosis than EBD?

2 A. No.

3 Q. Do you recall if Kevin was involved
4 in incidents of violence at school prior to his
5 receiving services at GNETS?

6 A. No.

7 Q. Let's take a look at part 8.

8 A. Yes.

9 Q. Reasonable steps that Georgia could
10 take to prevent unnecessary GNETS placements. The
11 good news is based on the way your report is
12 written, and I'm thankful for it, we've already
13 covered a lot of this ground.

14 A. Okay.

15 Q. And so I think we'll be able to get
16 through it.

17 One question I had involved the citation to
18 your article again on page 145 -- I'm sorry,
19 page 56, footnote 145.

20 A. Yes.

21 Q. That's the article we looked at
22 earlier. Isn't that right?

23 A. That's correct.

24 Q. Okay.

25 ATTORNEY HOLKINS: To be clear for

1 the record, you're talking about
2 Exhibit 3?

3 ATTORNEY BELINFANTE: Yes.

4 Exhibit 3.

5 ATTORNEY HOLKINS: Thank you.

6 ATTORNEY BELINFANTE: Good call.

7 BY ATTORNEY BELINFANTE:

8 Q. And that article as we talked about
9 looked at schools or analyzed district level
10 decisions. Isn't that right?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: I'm not sure what
13 you mean by that.

14 BY ATTORNEY BELINFANTE:

15 Q. Sure. Your 2002 article looked at
16 district level decisions and district level
17 spending; isn't that right?

18 ATTORNEY HOLKINS: Object to form.

19 THE WITNESS: Can we bring that
20 article up?

21 I haven't looked at this in a
22 while. Can I look at this?

23 ATTORNEY HOLKINS: Sure.

24 THE WITNESS: Finding a page
25 number. 17.

1 BY ATTORNEY BELINFANTE:

2 Q. Let me ask the question this way:

3 The analysis conducted here is on a school district
4 level. Isn't that right? You didn't look at the
5 state of Massachusetts. It's comparing districts;
6 isn't that right?

7 A. Well, what I did was basically
8 looked at one school district, which was a large
9 urban district. And I looked at Table 1, service
10 components of district-wide approach to behavior
11 support, which is functional behavior assessments;
12 preparation of written behavior intervention plans;
13 social skills assessment; social skills training;
14 database progress monitoring; parent training;
15 competency-based staff training; classroom-based
16 behavioral intervention; school-wide behavioral.

17 And what the district did was look at in
18 terms of doing this, particularly targeting those
19 students that were most at risk for restrictive
20 placement. And we then looked at the cost relative
21 to both per capita costs for out-of-district
22 placements, stand-alone, they basically could be
23 one in the same.

24 And we looked at percent of the public
25 school budget consumed by our district placements.

1 And that particular district as compared to the
2 other 14 largest districts in Massachusetts -- we
3 went on size -- they were -- as you can see in
4 figure 2, they spent \$100 per capita of their
5 students. And we used the per capita basis because
6 we wanted to make it even. If you look at the
7 district, how they spent \$650. And then it went
8 all the way down to \$400, \$300; right?

9 And then if you look at in terms of the
10 percent of the public school budget consumed by
11 out-of-district placements, it went from this
12 district had less than 2 percent of their budget
13 that was on out-of-district placements as compared
14 to -- you can see a number of others that spent 7
15 or 8 percent of their budget on out-of-district
16 input.

17 So we took this district that, you know,
18 had practices that I listed in my report that
19 had -- could be implemented, and then looked at in
20 terms of comparative districts in terms of the
21 spending. And then we also looked at in terms of
22 inclusion entity, because this district used those
23 savings to improve inclusionary services.

24 So literally the purpose of this was to
25 inform states and inform districts no matter

1 whether they are small or large of what they could
2 do to better leverage their funding to provide
3 services that would improve inclusion.

4 And so that was really the purpose was to
5 be able to -- in fact, we got a lot of comments in
6 this article saying this is really enlightening in
7 terms of really how we should look at our service
8 delivery system to one -- as it indicates on the
9 thing when we look at it on a statewide basis,
10 about \$250 million savings. It is to reallocate
11 resources to support students for the inclusionary
12 services.

13 Q. On page 57, recognizing that that
14 report focused on district level, page 57 says in
15 the first sentence, "My experience working with
16 this district and others to implement
17 exclusionary" -- excuse me -- "inclusionary
18 services and supports to help students with
19 behavior-related disabilities, avoid restrictive
20 placement is grounded in extensive research
21 demonstrating not only the effectiveness of the
22 services and supports, see Part 3, but also
23 strategies that could be used to achieve and
24 sustain wide scale reform."

25 Do you see that?

1 A. Yes.

2 ATTORNEY HOLKINS: Object to form.

3 Q. That sites the NASSP bulletin?

4 A. Yes.

5 Q. All right. You then go on to say,
6 "To prevent unnecessary GNETS placement and serve
7 moire students with behavior-related disabilities
8 in integrated classrooms, Georgia need not reinvent
9 the wheel. The roadmap for reform is well
10 established."

11 Can you identify for us what states Georgia
12 should look to to provide the roadmap for reform as
13 you describe it?

14 A. I think they need to look at the
15 research in terms of that.

16 Q. What research?

17 A. Well, one is this article.

18 Q. This article being Exhibit 3, your
19 article?

20 A. Yeah. There are also other articles
21 on the PBIS website.

22 Q. But you can't, sitting here today,
23 point to a state and say this is a state that's
24 implemented what I'm suggesting and therefore
25 establishing the road map for reform?

1 ATTORNEY HOLKINS: Object to form.

2 THE WITNESS: Not off the top of
3 my head.

4 ATTORNEY HOLKINS: I just want to
5 go back. Counsel, you asked Dr. Putnam
6 whether this support for the previous
7 statement that you reference was the
8 NAASP bulletin. And Dr. Putnam answered
9 yes. I just want the record to reflect
10 that there are other studies referenced
11 in that same footnote 146.

12 ATTORNEY BELINFANTE: Fair.

13 BY ATTORNEY BELINFANTE:

14 Q. You cite in the next sentence, "The
15 successes I have witnessed at the district level
16 could be used statewide using the same prudent
17 strategies," and you site for that the School and
18 Community Healing Collaborative from 2023,
19 footnote 147.

20 Do you see that?

21 A. Yes.

22 Q. Okay. To no one's great surprise I
23 will show you what we've marked as Exhibit 14,
24 which is I believe and hope the document which you
25 referred to in footnote 147.

1 A. Uh-huh.

2 (Exhibit 14 was marked for
3 identification.)

4 A. May I take a little time to look at
5 this?

6 Q. A little, sure. Let me just ask
7 this before you do that. You were part of the
8 authors of this study; correct?

9 A. Correct.

10 Q. Okay.

11 (Pause)

12 A. Okay.

13 Q. All right. Let's go to page 3 of
14 that document.

15 A. Uh-huh.

16 Q. This is Exhibit 14. It says there
17 that the document is -- and this is in the second
18 paragraph under the shaded part.

19 "This document is an expression of hope
20 that in this moment of crisis we can overcome or we
21 can come together and generate true and impactful
22 change in America's schools, keeping what is
23 working, but also innovating new approaches to
24 mitigate systemic harm to students, families,
25 caregivers and staff to support academic rigor

1 alongside mental and social health for all involved
2 in the educational system."

3 Do you see that?

4 A. Yes.

5 Q. So the document as described in your
6 report says that what's witnessed district level
7 can be replicated statewide using the same proven
8 strategies, but this document describes itself as
9 an expression of hope.

10 How do you reconcile those two?

11 ATTORNEY HOLKINS: Object to form.

12 THE WITNESS: Well, I think you
13 have to look at the actual practices.

14 BY ATTORNEY BELINFANTE:

15 Q. Okay.

16 A. So, for example, it suggests in a
17 number of practices in classrooms that basically I
18 believe that I witnessed it at a district level.
19 So when you look at in terms of the classroom,
20 welcomed and greeted, I witnessed that as district
21 level. You know, I witnessed districts providing
22 higher rates of feedback and acknowledgment. I
23 witnessed directly teaching -- taught and support
24 the use of effective social skills,
25 self-regulation, and coping skills.

1 So, you know, that's just one. And then if
2 we go and vision in terms of staff, which in my
3 report I suggested increased professional
4 development for administrative and staff and, you
5 know, welcome and greeted warmly into a set of
6 consistent predictableness for educators and staff,
7 encourage and provided opportunities.

8 So, you know, I clearly witnessed these
9 things. That sentence is the successes I've
10 witnessed which have resulted -- these things have
11 resulted directly in reduced office discipline
12 referrals that's the leading indicator. Hang on
13 one second. I'm not finished.

14 And if we go over to two, you know, it's
15 basically -- it suggests specifically the state
16 actions that could be taken in terms of this and
17 part of the National Technical Assistance Center.
18 These are the things that we witnessed states doing
19 to improve what's going on in their schools to
20 reduce the office discipline referrals that
21 impact -- lead to more restrictive settings.

22 Q. And appreciating that, Doctor, back
23 on page 3, despite what the document provides, and
24 we can get into -- and I'll ask some specific
25 questions about what's in the back.

1 A. Sure.

2 Q. Back on page 3, the sentence after
3 the one I just read said that this document is not
4 intended to be a comprehensive how-to guide for
5 recovery. Instead, it is presenting as a starting
6 place and a call for ongoing dialogue and learning
7 that leads to meaningful action.

8 Do you see that?

9 A. Yes.

10 Q. My question goes back to your
11 report. If this report, which is cited as
12 footnote 147, is the basis for the State of Georgia
13 to conclude that your strategies that you recommend
14 can be replicated statewide, how is the state
15 supposed to use this when this report says it's not
16 a how-to guide?

17 ATTORNEY HOLKINS: Object to form.

18 Q. It's a starting point, starting
19 place.

20 ATTORNEY HOLKINS: Object to form.

21 THE WITNESS: Well, one of the
22 things that you need to look at is the
23 systemic care plan. If you look at
24 Georgia's system of care plan.
25

1 BY ATTORNEY BELINFANTE:

2 Q. Right.

3 A. That aligns with this particular
4 document. If you look at their PBS, strategic
5 plan, it aligns with this document. So Georgia's
6 already taken many of these things and already put
7 in their strategic plans for what they would like
8 Georgia to do moving forward.

9 So I don't see this as a hopeful thing
10 when, in fact, Georgia has already in their own
11 words outlined in terms of many of these things in
12 their current strategic plans.

13 Q. And -- but this document calls for,
14 in its own words, radical change in how we
15 prioritize actions. Isn't that right?

16 ATTORNEY HOLKINS: Object to form.

17 Are you referencing Exhibit 14 or --

18 ATTORNEY BELINFANTE: Exhibit 14.

19 THE WITNESS: Where is that?

20 BY ATTORNEY BELINFANTE:

21 Q. Page 5, second bullet point.

22 A. I don't see that.

23 Q. Second bullet point, first sentence
24 reads, "There also needs to be an acknowledgment
25 that everyone has experienced a global disaster in

1 the combination of COVID-19, social injustice,
2 racial injustice, political divisiveness,
3 environmental impact, and gun violence requires
4 radical change in how we prioritize action."

5 Do you see that?

6 A. No. I don't know where you are.

7 Q. Page 5 of Exhibit 14, the second
8 bullet point.

9 A. The second bullet point. Well, it
10 may be in some places that requires radical change.
11 However, if we go back to the Georgia system of
12 care, strategic plan, this aligns beautifully with
13 this document.

14 And also go back to the PBS, the Georgia
15 strategic plan. So I didn't see that as, you know,
16 as radical change where Georgia has already
17 indicated this is the direction they want to go.

18 Q. Let's go to page 9 of Exhibit 14.
19 Looking at the bottom paragraph, two-thirds of the
20 way through there's a sentence that says, "For
21 those youth who are poor and from minority and
22 marginalized communities, this will likely include
23 significant funding and staffing efforts to help
24 bring those students into academic competency."

25 Do you see that?

1 A. Yes.

2 Q. Do you agree with that statement?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: Well, I think what
5 I've continued to say is there are
6 resources in Georgia that can be
7 reallocated to provide the services that
8 these students need to not need more
9 restrictive placements.

10 BY ATTORNEY BELINFANTE:

11 Q. But to use this document,
12 Exhibit 14, as a plan, it's going to require
13 significant funding and staffing. Isn't that
14 right?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Depends on the
17 state, and it depends on the district.
18 Again, I just go back to the Georgia
19 system of care plan that aligns with this
20 document, that's already -- Georgia has
21 committed to moving forward.

22 I go back to the PBS strategic
23 plan that aligns with this particular
24 document. They've already committed to
25 moving in this particular direction.

1 BY ATTORNEY BELINFANTE:

2 Q. But I understand part of your
3 criticisms of Georgia's efforts has been a lack of
4 resources. And here is another document showing
5 that there needs to be significant funding.

6 So even if Georgia has said that this is
7 going to happen or that Georgia intended to happen,
8 it is still going to require significant funding in
9 the words of Exhibit 14, which you cite as the
10 basis to conclude that what happened in one school
11 district in Massachusetts can be replicated
12 statewide. Isn't that right?

13 ATTORNEY HOLKINS: Object to form.

14 THE WITNESS: No.

15 BY ATTORNEY BELINFANTE:

16 Q. Okay. Then how is it, the
17 document -- you have said repeatedly that Georgia's
18 challenge is a commitment of resources. Isn't that
19 right?

20 ATTORNEY HOLKINS: Object to form.

21 THE WITNESS: I've said there are
22 resources in Georgia that can be
23 reallocated to support these students.

24 BY ATTORNEY BELINFANTE:

25 Q. And those resources are currently,

1 in your opinion, being spent on GNETS facilities;
2 is that right?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: Some.

5 BY ATTORNEY BELINFANTE:

6 Q. Because in going to page 58 of your
7 report, you write in the last sentence of the first
8 full paragraph, "By contrast, Georgia uses
9 state-only funds for Behavioral Health services in
10 GNETS facilities."

11 Do you see that?

12 A. No. Where is that?

13 Q. The last sentence of the first full
14 paragraph on page 58.

15 A. Yes. Okay, I see that, yeah.

16 Q. So your argument is or it is your
17 argument that Georgia should redirect funds
18 currently dedicated to GNETS to Medicaid-based
19 services?

20 ATTORNEY HOLKINS: Object to form.

21 THE WITNESS: That's just one
22 component.

23 BY ATTORNEY BELINFANTE:

24 Q. Just one component, okay.

25 So that would be the redirection of

1 services. There would still have to be, using the
2 words of the Exhibit 14 report, significant funding
3 and staffing efforts to help bring these students
4 into academic competency. Isn't that right?

5 ATTORNEY HOLKINS: Object to form.

6 THE WITNESS: Again, I will go
7 back to what Georgia has already put in
8 writing in terms of their strategic plans
9 of what they want to do to achieve this.

10 BY ATTORNEY BELINFANTE:

11 Q. And you've not conducted yourself
12 any cost analysis as to what it would take to fully
13 implement the strategic -- the systems of care
14 plan; isn't that right?

15 ATTORNEY HOLKINS: Object to form.

16 THE WITNESS: Correct.

17 BY ATTORNEY BELINFANTE:

18 Q. And you have not done any cost
19 analysis to see what it would cost to fully
20 implement the state's PBIS program. Isn't that
21 right?

22 A. Correct.

23 Q. Okay. Let's go to page 60 under
24 "Service Intensity."

25 A. Yes.

1 Q. The second paragraph, the first full
2 sentence reads, "Specifically, Georgia can set
3 expectations around behavioral health service
4 delivery and student outcomes, including through
5 its Apex and PBIS programs and can expand and
6 enhance existing effort to collect and analyze data
7 in these areas."

8 Do you see that?

9 A. Yes.

10 Q. Okay. When you say "Georgia can set
11 expectations around Behavioral Health service
12 delivery and student outcomes," what is the role
13 for the Department of Community Health in setting
14 those expectations? Or do you have an opinion as
15 to whether there is a role for the Department of
16 Community Health in setting those expectations?

17 ATTORNEY HOLKINS: Object to form.

18 THE WITNESS: Well, through the
19 DBHDD manual, they've set expectations
20 for Behavioral Health service delivery.

21 BY ATTORNEY BELINFANTE:

22 Q. Okay. And you don't have any
23 criticisms of what is in the provider manual; is
24 that right?

25 ATTORNEY HOLKINS: Object to form.

1 THE WITNESS: I think that's a --
2 they set reasonable expectations, yes.

3 BY ATTORNEY BELINFANTE:

4 Q. Okay. Let's look at page 62.

5 A. 62.

6 Q. Yes. I'm looking for the specific
7 piece that I had. If anyone wants to jump ahead,
8 it's the baseline of knowledge phrase.

9 ATTORNEY HOLKINS: Looking at the
10 first sentence.

11 Q. Okay. Dr. Putnam, as you said, it's
12 getting late in the day.

13 A. Right.

14 Q. That first sentence says,
15 "Providing" -- I'm on page 62 under III, "Providing
16 effective services for students with
17 behavioral-related disabilities requires that
18 educators, school administrators, and service
19 providers all have a baseline of knowledge,
20 training, and experience consistent with
21 established standards of care."

22 Do you see that?

23 A. Correct.

24 Q. What do you mean by "baseline of
25 knowledge"?

1 A. Well, one would be PBS, both at
2 Tier 1 and classroom as well as some knowledge of
3 what we mean by Tier 2 and some knowledge of what
4 we mean by Tier 3.

5 Q. Okay. Is there a place that one
6 could go look to determine what would be a
7 sufficient baseline of knowledge that educators are
8 required to have to be within established standards
9 of care?

10 ATTORNEY HOLKINS: Object to form.

11 THE WITNESS: Again, I would go to
12 the PBS website.

13 BY ATTORNEY BELINFANTE:

14 Q. Okay.

15 A. Which is the National Technical
16 Assistance Center funded by the office of special
17 education.

18 Q. All right.

19 Talk about the data collection in IV. Is
20 it your opinion that the state is not doing enough
21 to collect data or that the state is affirmatively
22 hampering the collection of data?

23 ATTORNEY HOLKINS: Object to form.

24 THE WITNESS: As I say in my
25 report, the state can address this by

1 taking reasonable steps to fully
2 implement objectives as set forth in its
3 system of care plan, which includes
4 improving coordination and data sharing
5 between the state's child serving
6 agencies, local school district and
7 school-based service provider
8 organizations and other community
9 partners.

10 ATTORNEY BELINFANTE: This is now
11 everybody's favorite part of the
12 deposition. I should say second favorite
13 part. If you all give me five minutes, I
14 could be done.

15 THE VIDEOGRAPHER: We are going
16 off the record at 18:15.

17 (Recess taken from

18 6:15 p.m. to 6:23 p.m.)

19 THE VIDEOGRAPHER: We are back on
20 the record at 18:23.

21 BY ATTORNEY BELINFANTE:

22 Q. Dr. Putnam, literally just a few
23 questions left.

24 Did you happen to read Dr. Wiley's report
25 in this case?

1 A. No.

2 Q. Do you plan to read it?

3 ATTORNEY HOLKINS: Object to form.

4 THE WITNESS: If I'm directed by
5 counsel to read it, yes.

6 BY ATTORNEY BELINFANTE:

7 Q. Do you plan to opine on it at trial?

8 ATTORNEY HOLKINS: Object to form.

9 THE WITNESS: I don't know.

10 BY ATTORNEY BELINFANTE:

11 Q. If you do plan to provide an opinion
12 on Dr. Wiley's report at trial, do you plan to
13 write a report summarizing your opinion?

14 ATTORNEY COHEN: Object to form.

15 THE WITNESS: I don't know.

16 ATTORNEY BELINFANTE: I don't have
17 any more questions, and unless there's
18 redirect I will reserve any more
19 questions.

20 ATTORNEY HOLKINS: The United
21 States has no more questions for
22 Dr. Putnam. One more thing on the
23 record, Dr. Putnam would like to read and
24 sign.

25 ATTORNEY BELINFANTE: The only

1 thing I will do, and I don't think this
2 will be an issue or at least it will be
3 one that I can resolve later is I will
4 now suspend the deposition pending if he
5 does issue a report or plan to opine on
6 Dr. Wiley's testimony.

7 ATTORNEY HOLKINS: The United
8 States would object to holding this
9 deposition open. We understand that
10 you're making the record, but we also
11 want our objection to be noted.

12 ATTORNEY BELINFANTE: Dr. Putnam,
13 that means you are done for the day, and
14 thank you for making the trip to D.C.

15 THE VIDEOGRAPHER: We are going
16 off the record at 18:25.

17 THE COURT REPORTER: Would you
18 like to state your transcript order on
19 the record now?

20 ATTORNEY HOLKINS: Yes, we would
21 like to order a rough transcript. We
22 will be in touch, I believe, with your
23 agency about that.

24 ATTORNEY BELINFANTE: We would
25 also like a rough transcript. And then

1 whatever we need to review.

2 (Proceedings adjourned at

3 6:25 p.m.)

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1 DISTRICT OF COLUMBIA: SS.

2 I, Barbara Moore, a Registered Court Reporter
3 of the District of Columbia, do hereby certify that
4 these proceedings took place before me at the time
5 and place herein set out, and the proceedings were
6 recorded stenographically by me and this transcript
7 is a true record of the proceedings.
8

9 I further certify that I am not of counsel to
10 any of the parties, nor an employee of counsel nor
11 related to any of the parties, nor in any way
12 interested in the outcome of this action.
13

14
15 
16

17 BARBARA MOORE, CRR, RMR
18

19 _____
20 My Commission Expires:
21 July 31, 2028
22
23
24
25

Notice Date: 09/13/2023

Deposition Date: 9/7/2023

Deponent: Robert F. Putnam

Case Name: United States of America v. State of Georgia

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

Signature of Deponent

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this ____ day of _____, 20__, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

County Name

MY COMMISSION EXPIRES:

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